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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय

(कानूनी और प्रशासनिक सुधार विभाग)

नई दिल्ली 11 दिसम्बर, 1980

का० आ० 3631.—दण्ड प्रक्रिया संहिता 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार, एतद्वारा पटना उच्च न्यायालय पटना में, दिल्ली विशेष पुलिस स्थापना नियमित मामला संख्या 11/70 सी० आई० ए० (1) से उत्पन्न श्री सीता शरण श्रीवास्तव द्वारा दायर आपराधिक अपील संख्या 206/80 तथा श्री एम० एम० रमैया द्वारा दायर आपराधिक अपील संख्या 226/80 का संचालन करने के लिए, श्री बृज किशोर प्रसाद मिन्हा, अतिवक्ता पटना को विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/68/80-ए०सी०सी०]

टी० के० मुक्कमणियन, प्रवर सचिव

MINISTRY OF HOME AFFAIRS

(Department of Personnel and Administrative Reforms)

New Delhi, the 11th December, 1980

G.O. 3631.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure,

1973 (2 of 1974), the Central Government hereby appoints Shri Brij Kishore Prasad Sinha, Advocate Patna as Special Public Prosecutor for the purpose of conducting Criminal Appeal Nos. 206/80 filed by Shri Sita Saran Srivastava and 226/80 filed by Shri M. S. Ramaiah arising out of the Delhi Special Police Establishment Regular Case No. 11/70-CIA(1), in the Patna High Court, Patna.

[No. 225/68/80-AVID-II]

T. K. SUBRAMANIAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 6 दिसम्बर, 1980

का० आ० 3632.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 20 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए और भारत सरकार के वित्त मंत्रालय (राजस्व विभाग) की 11 अक्टूबर 1980 की अधिसूचना सं० 19/80-स्टाम्प-का० सं० 33/13/80-बि०का० (का० आ० सं० 2688) को अधिकांश करने हुए, केन्द्रीय सरकार एतद्वारा, स्टाम्प शुल्क की संगणना के प्रयोजनार्थ, नीचे की सारणी के स्तम्भ (2) में विनिर्दिष्ट विदेशी मुद्रा को, भारतीय मुद्रा में सम्मरिवर्तित करने के लिए, विनिमय की दर, उसके स्तम्भ (3) में तत्सम्वन्धी प्रविष्टियों में विहित करती है।

सारणी		
क्रम संख्या	विदेशी मुद्रा	100 रु० के समतुल्य विदेशी मुद्रा के विनिमय की दर
(1)	(2)	(3)
1.	ऑस्ट्रियन शिल्लिंग	161
2.	ऑस्ट्रेलियन डॉलर	10.79
3.	बेल्जियन फ्रैंक	365
4.	कनाडियन डॉलर	14.80
5.	डेनिश क्रोनर	70.65
6.	ड्यू मार्क	22.90
7.	डच गिल्डर	24.87
8.	फ्रेंच फ्रैंक	53.10
9.	हांग कांग डॉलर	63.05
10.	इटालियन लीरा	10872
11.	जापानी येन	2690
12.	मलेशियन डॉलर	26.94
13.	नार्वेजियन क्रोनर	61.55
14.	पोड स्टलिंग	5 3665
15.	स्वीडिश क्रोनर	52.60
16.	स्विस फ्रैंक	20.88
17.	अमरीकी डॉलर	12.77

[सं० 24/80 स्टाम्प फा० सं० 33/13/80-वि०क०]
जी० एम० मेहरा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 6th December, 1980

S.O. 3632.—In exercise of the powers conferred by sub-section (2) of section 20 of the Indian Stamp Act, 1899 (2 of 1899) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 119/80. Stamps-F. No. 33/13/80-ST (No. S.O. 2688) dated the 11th October, 1980, the Central Government hereby prescribes in column (3) of the Table below the rate of exchange for the conversion of the foreign currency specified in the corresponding entry in column (2) thereof into the currency of India for the purpose of calculating stamp duty.

TABLE

S. No.	Foreign currency	Rate of exchange of foreign currency equivalent to Rs. 100
1	2	3
1.	Austrian Schillings	161
2.	Australian Dollars	10.79
3.	Belgian Francs	365
4.	Canadian Dollars	14.80
5.	Danish Kroners	70.65
6.	Deutsche Marks	22.90
7.	Dutch Guilders	24.87

1	2	3
8.	French Francs	53.10
9.	Hong Kong Dollars	53.05
10.	Italian Lire	10872
11.	Japanese Yen	2690
12.	Malaysian Dollars	26.94
13.	Norwegian Kroners	61.55
14.	Pound Sterling	5 3665
15.	Swedish Kroners	52.60
16.	Swiss Francs	20.88
17.	U.S.A. Dollars	12.77

[No. 24/80—Stamps F.No. 33/13/80—ST]

G.S. MEHRA, Under Secy.

आदेश

नई दिल्ली, 11 दिसम्बर, 1980

फा० आ० 3633.—भारत सरकार के अपर सचिव ने, जिन्हें विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 की धारा 3 की अपधारा (1) के अधीन विशेष रूप से मणकन किया गया है, उक्त अधिनियम की धारा 3 (1) के अधीन आदेश सं० 673/12/80-सी० ए० VIII, तारीख 11 मितम्बर, 1980 यह निदेश करने हुए जारी किया है कि श्री जीतेन्द्र सिंह, पुत्र स्व० राम उदय सिंह, 67/7, स्ट्रैंड बैंक रोड, कलकत्ता-700006 को तस्करी का मान लाने-ले जाने से उसे निवारित करने की दृष्टि से निरुद्ध किया जाए और उसे प्रेसीडेन्सी जेल, कलकत्ता की अभिरक्षा में रखा जाए।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि उपर्युक्त व्यक्ति करार हो गया है या कहीं छिप गया है जिससे कि आदेश का निष्पादन न हो सके।

3. केन्द्रीय सरकार, विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 की धारा 7 (1) (ख) के अधीन शक्तियों का प्रयोग करते हुए, पूर्वोक्त व्यक्ति को यह निदेश करती है कि वह राजपत्र में इस आदेश के प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, कलकत्ता के समक्ष उपस्थित हो।

[फा० सं० 673/12/80-सी० ए० VII]

एन० आई० रामनाथन, अवर सचिव

ORDR

New Delhi, the 11th December, 1980

S.O. 3633.—Whereas Additional Secretary to the Government of India, specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 issued order F. No. 673/12/80-Cus. VIII, dated the 11th September, 1980 under section 3(1) ibid directing that Shri Jitendra Singh, son of late Ram Uday Singh, 67/7, Strand Bank Road, Calcutta-700006 be detained and kept in custody in the Presidency Jail, Calcutta, with a view to preventing him from engaging in transporting smuggled goods; and

2. Whereas the Central Government has reason to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. The Central Government in exercise of powers under section 7(1)(b) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 hereby direct the aforesaid person to appear before the Commissioner of Police, Calcutta within 7 days of the publication of this order in official gazette.

[F. No. 673/12/80 Cus VIII]

N. I. RAMANATHAN, Under Secy.

नई दिल्ली, 27 दिसम्बर, 1980

सीमा-शुल्क

का० आ० 3634.—केन्द्रीय सरकार, सीमाशुल्क अधिनियम, 1962 (1962 का 52) की धारा 7 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और वित्त मंत्रालय (राजस्व और बीमा विभाग) की अधिसूचना सं० 100-सीमाशुल्क, तारीख 28 नवम्बर, 1970 की अधिकांश करने हुए, जम्मू और कश्मीर विमानतल (राजासली) को निम्नलिखित प्रयोजनों के लिए सीमा-शुल्क विमानतल के रूप में नियुक्त करती है :—

- (क) अफगानिस्तान मूल के माल और अफगानिस्तान से आयातित यात्री सामान की उतराई; और
- (ख) निम्नलिखित निर्यात माल की लदाई अर्थात् :—
 - (1) भारतीय मूल का माल और अफगानिस्तान को निर्यात के लिए यात्री सामान,
 - (2) चाय,
 - (3) गन्नीचे,
 - (4) सभी प्रकार का हॉजरी का माल सूती और ऊनी टेक्सटाइल, रेशमी और सेल्यूलसिक टेक्सटाइल,
 - (5) खेती का माल
 - (6) चमड़े का परिमाणित माल,
 - (7) रसायन—कार्बनिक या अकार्बनिक,
 - (8) इंजीनियरी का माल अर्थात् हाथ के औजार, मशीन के औजार, माइक्रिक पुर्जे, घाटों के पुर्जे, नट और बोल्ट,
 - (9) प्रसंस्कृत खाद्य,
 - (10) हस्तशिल्प,
 - (11) औषधि और औषधि सहायक, और
 - (12) रबर विनिमिता, अर्थात् टायर और ट्यूब।

[सं० 241/80-सीमाशुल्क/का० सं० 481/69/78-सी० शु० 7]
अनंद छाबड़ा, उपमन्त्रि

New Delhi, the 27th December, 1980

CUSTOMS

S.O. 3634.—In exercise of the powers conferred by clause (a) of section 7 of the Customs Act, 1962 (52 of 1962) and in supersession of the notification of the Ministry of Finance (Department of Revenue and Insurance) No. 100-Customs, dated the 28th November, 1970, the Central Government hereby appoints the airport at Amritsar (Rajasthan) as a Customs airport for the purpose of—

- (a) unloading of goods of Afghanistan origin and baggage imported from Afghanistan; and
- (b) loading of the following export goods, namely :—
 - (1) goods of Indian origin and baggage for exports to Afghanistan,
 - (2) Tea,
 - (3) Carpets,
 - (4) Hosiery goods all types, Cotton and Woollen textiles, Silk and cellulosic textiles,
 - (5) Sports goods,
 - (6) Leather finished goods,
 - (7) Chemicals—organic and inorganic,
 - (8) Engineering goods namely; hand tools, machine tools, cycle parts, auto parts, nuts and bolts.
 - (9) Processed foods,
 - (10) Handicrafts,
 - (11) Drugs and drug intermediates, and
 - (12) Rubber manufactures, namely, tyres and tubes.

[No. 241/80-Customs/F. No. 481/69] 73 Cus-VII]

A. K. CHHABRA, Dy. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 15 दिसम्बर, 1980

का० आ० 3635.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा यह घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खंड (ग) के उपखंड (i) और (ii) के उपबंध 20 दिसम्बर 1981 तक की अवधि के लिए बैंक ऑफ अमेरिका पर उस सीमा तक लागू नहीं होंगे, जहां तक ये उपबंध इसके भारत में मुख्य कार्यपालक अधिकारी के भारतीय औद्योगिक अणु तथा निवेश निगम लि० के मण्डल में निदेशक के रूप में कार्य करने पर इसलिए पाबन्दी लगाते हैं कि वह, कम्पनी अधिनियम, 1956 (1956 का 1) के अन्तर्गत पंजीकृत एक कम्पनी है।

[सं० 15 (39)/80-बी० प्रो०-III]

(Department of Economic Affairs)

(BANKING DIVISION)

New Delhi, the 15th December, 1980

S.O. 3635.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-clauses (i) and (ii) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to the Bank of America upto 20th December 1981 insofar as the said provisions prohibit its Chief Executive Officer in India to function as a director on the Board of the Industrial Credit and Investment Corporation of India Ltd., a company registered under the Companies Act, 1956 (1 of 1956).

[No. 15(39)/80-B. O. III]

का० आ० 3636.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा यह घोषणा करती है।

(क) कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खंड (ग) के उपखंड (i) और (ii) तथा धारा 10ख की उपधारा (2) और (4) के उपबंध इस अधिसूचना की तारीख से 1 वर्ष तक की अवधि के लिए जम्मू एंड काश्मीर बैंक लिमिटेड, श्रीनगर पर उस सीमा तक लागू नहीं होंगे, जहां तक ये उपबंध इसके अध्यक्ष तथा मुख्य कार्यपालक अधिकारी के जम्मू एंड काश्मीर इन्डस्ट्रियल एंड टैक्निकल कन्सल्टेंसी ऑर्गेनाइजेशन लिमिटेड, जम्मू का निदेशक होने पर इसलिए पाबन्दी लगाते हैं कि वह कम्पनी अधिनियम, 1956 (1956 का 1) के अन्तर्गत पंजीकृत एक कम्पनी है, और (ख) कि उक्त अधिनियम की धारा 10 की उपधारा (3) के उपबंध इस अधिसूचना की तारीख से 1 वर्ष तक की अवधि के लिए उपर्युक्त बैंक पर उस सीमा तक लागू नहीं होंगे, जहां तक ये उपबंध उक्त बैंक के जम्मू एंड काश्मीर इन्डस्ट्रियल एंड टैक्निकल कन्सल्टेंसी ऑर्गेनाइजेशन लिमिटेड, जम्मू की शेयर धारिता पर इसलिए पाबन्दी लगाते हैं, कि वह कम्पनी अधिनियम, 1956 (1956 का 1) के अन्तर्गत पंजीकृत एक कम्पनी है।

[संख्या 15 (40)/80-बी० प्रो०-III]

S.O. 3636.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares—

(a) that the provisions of sub-clauses (i) and (ii) of clause (c) of sub-section (1) of section 10 and sub-sections (2) and (4) of section 108 of the said Act shall not apply to the Jammu and Kashmir Bank Ltd., Srinagar for a period of one year from the date of notification, insofar

as the said provisions prohibit its Chairman and Chief Executive Officer from being a director of the Jammu and Kashmir Industrial and Technical Consultancy Organisation Ltd., Jammu, being a Company registered under the Companies Act, 1956 (1 of 1956); and

(b) that the provisions of sub-section (3) of Section 19 of the said Act shall not apply to the above mentioned bank for a period of one year from the date of notification, insofar as the said provisions prohibit the said bank from holding shares in the Jammu and Kashmir Industrial and Technical Consultancy Organisation Ltd., Jammu, being a company registered under the Companies Act, 1956 (1 of 1956).

[No. 15(40)/80-B.O. III]

का० आ० 3637—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा यह घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खंड (ग) के उपखंड (i) और (ii) के उपबंध 9 अक्टूबर, 1981 तक की अवधि के लिए केनरा बैंक पर उस सीमा तक लागू नहीं होंगे, जहां तक ये उपबंध इसके अध्यक्ष तथा प्रबंध निदेशक के कर्तावक स्टेट इन्स्टिट्यूट एंड डेवलपमेंट कारपोरेशन लिमिटेड का अनिर्दिष्ट निदेशक होने पर इसलिये पावदी लगाने हैं कि वह कम्पनी अधिनियम, 1956 (1956 का 1) के अन्तर्गत पंजीकृत एक कम्पनी है।

[सं० 15 (33)/80-बी० ओ०-III]

एन० डी० बत्रा, अवर सचिव

S.O. 3637.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-clauses (i) and (ii) of clause (c) of sub-Section (1) of Section 10 of the said Act shall not apply to the Canara Bank upto 9th October 1981 insofar as the said provisions prohibit its Chairman and Managing Director from being an additional director of the Karnataka State Industrial Investment and Development Corporation Ltd., being a company registered under the Companies Act, 1956 (1 of 1956).

[No. 15(33)/80-B.O. III]

N. D. BATRA, Under Secy.

(केन्द्रीय उत्पादन शुल्क समारोहलय)

बैंगलूर, 25 जुलाई, 1980

केन्द्रीय उत्पादन शुल्क

का० आ० 3638 :—केन्द्रीय उत्पादन शुल्क नियमावली 1944 के नियम 5 के अधीन निहित शक्तियों का प्रयोग करते हुए मैं, इसके द्वारा इस समारोहलय के अधिकारिक सहायक समारोह केन्द्रीय उत्पादन शुल्क, को केन्द्रीय उत्पादन शुल्क नियमावली 1944 के नियम 56-क के उपनियम (3) के उपखण्ड (घ) के अधीन ऐसे निर्माताओं को, जो केन्द्रीय उत्पादन शुल्क मानव सशोधन नियमावली 1980 (अर्थात् पहली अगस्त 1980) के लागू होने से ठीक पहले शुल्क लगने योग्य तैयार शुल्क्य माल के निर्माण में प्रयुक्त सघटक भागों या सामग्री पर शुल्क समायोजन प्रणाली का लाभ उठा रहे थे, (1) इस प्रकार के प्रारम्भ से पूर्व केन्द्रीय उत्पादन शुल्क नियमावली, 1944 के नियम 8 के अधीन अधिसूचना द्वारा उनके (निर्माताओं) द्वारा प्राप्त उक्त सघटक भागों या सामग्री और ऐसी सामग्री पर जो कि अप्रयुक्त पड़ी हो, प्रदत्त शुल्क की राशि और (2) इस प्रकार के प्रारम्भ से पूर्व कारखाने में स्टॉक में रखे शुल्क लगने योग्य तैयार शुल्क्य माल में निहित अथवा अभिसंस्करण के अधीन अथवा उसी रूप में उक्त शुल्क प्रदत्त सामग्री अथवा सघटक भागों के स्टॉक को, इस

सम्बन्ध में निर्धारित सीमाओं और शर्तों पर आर० जी० 23 प्रवृत्त में रखे जाने वाले लेखों में अंतरण करने की अनुमति प्रदान करने से सम्बंधित समारोह की शक्तियों के प्रयोग का अधिकार प्रदान करता हूँ।

[अधिसूचना सं० 1/80]

(Office of the Collector of Central Excise)

Bangalore, the 25th July, 1980

CENTRAL EXCISES

S.O. 3638.—In exercise of the powers vested in me under Rule 5 of Central Excise Rules 1944, I hereby empower the jurisdictional Assistant Collectors of Central Excise in this Collectorate to exercise the powers of the Collector under Sub-clause (d) in sub-rule (3) of Rule 56-A of Central Excise Rules 1944, in regard to grant of permission to the manufacturer who had been, immediately before commencement of the Central Excise 7th Amendment Rules 1980 (i.e. 1st August 1980), availing of the set-off procedure on material or component parts used in the manufacture of dutiable finished excisable goods by notification under Rule 8 of Central Excise Rules 1944, to transfer (i) the amount of duty paid on the said material or component parts received by him and lying unutilised before such commencement to his account in Form R.G. 23 and (ii) the stocks of the said duty paid material or component parts as such or in process or contained in the dutiable finished excisable goods in stock, in the factory before such commencement to his account in Form R.G. 23, on such conditions and limitations prescribed by him in this regard.

[Notification No. 1/80]

बैंगलूर, 3 अक्टूबर, 1980

का० आ० 3639—केन्द्रीय उत्पादन शुल्क नियमावली, 1944 के नियम 5 के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए मैं, इसके द्वारा आपको के प्रभारी अधिकारिक अधीक्षकों, केन्द्रीय उत्पादन शुल्क को, केन्द्रीय उत्पादन शुल्क नियमावली 1944 के नियम 93 (ख) (3) के अधीन सम्बाक के सभी उत्पादों के निर्माताओं के लेबलों को खपटों और बाहरी आवरणों के अनुमोदन से सम्बंधित समारोह की शक्तियों के प्रयोग का अधिकार प्रदान करना हूँ।

2 इस समारोहलय द्वारा इससे पहले दिनांक 24-8-79 को जारी अधिसूचना सं० 3/79 जिसमें मण्डलों के केन्द्रीय उत्पादन शुल्क के प्रभारी अधिकारिक सहायक समारोहों को केन्द्रीय उत्पादन शुल्क नियमावली के उक्त नियम के अधीन अधिकार प्रदान किया गया है, रद्द की जाती है।

[अधिसूचना सं० 2/80]

आर० एन० शुक्ला, समारोह

Bangalore, the 3rd October, 1980

S.O. 3639.—In exercise of the powers conferred on me under Rule 5 of Central Excise Rules, 1944, I hereby empower the jurisdictional Superintendents of Central Excise incharge of Ranges to exercise the powers of the Collector under Rule 93(b)(iii) of Central Excise Rules, 1944, to approve the wrappers, outer coverings and labels of the manufactures of all Tobacco Products.

2. This Collectorate's earlier Notification No. 3/79 dated 24th August, 1979 empowering the jurisdictional Assistant Collectors of Central Excise incharge of divisions under the said Rule of Central Excise Rules stands rescinded.

[Notification No. 2/80]

R. N. SHUKLA, Collector

प्रत्यक्ष कर विभाग

धनकर के ऐसे सभी करदाताओं के नाम, जिनका शुद्ध धन वित्तीय वर्ष 1979-80 के दौरान 10 लाख रुपये से अधिक निर्धारित किया गया था। (I) हैसियत के लिए 'आई' (I) व्यक्तिगत के लिए, (II) कर निर्धारण वर्ष के लिए (III) की गई शुद्ध धन विवरणी (रिटर्न) के लिए (IV) निर्धारित शुद्ध धन के लिए (V) वेब कर के लिए (VI) दिये गए कर के लिए है।

क्र० आ० 3640—केन्द्रीय उत्पाद शुल्क के नियम, 1944 के नियम 5 द्वारा मुझे प्रदत्त शक्तियों का प्रयोग करते हुए मैं, बी० आर० रेड्डी, केन्द्रीय उत्पाद शुल्क मद्रास का समाहर्ता एतद्द्वारा केन्द्रीय उत्पाद शुल्क के नियम 1944 के नियम 93 (ख) में प्रबंधित शक्तियों को, केन्द्रीय उत्पाद शुल्क के अधीक्षकों को, शर्त के अध्वधीन में रेपरो, बाह्य आवेष्टको या लेबलों को प्रामांशित करने के लिए अधिकार देता हूँ, अनुमोदित रेपरो बाह्य आवेष्टको या लेबलों को क्षेत्रीय महासक समाहर्ता तथा समाहर्ता को भी भेजा जाए।

[सी० सं० 5/4/30/4/80 सी० एक्स-1]

बी० आर० रेड्डी, समाहर्ता

Madras, the 29th October, 1980

S.O. 3640.—In exercise of the powers conferred on me, under Rule 5 of the Central Excise Rules 1944, I, B. R. Reddy, Collector of Central Excise, Madras, hereby delegate the powers of the Collector, as provided in Rule 93 (b) of the Central Excise Rules 1944, to the Superintendent of Central Excise, for approval of wrappers, outer coverings or labels, subject to the condition that the approved specimens of wrappers, outer coverings or labels are sent to the Jurisdictional Assistant Collector and to the Collector also.

[C. No. V/4/30/4/80-CX.I]

B. R. REDDY, Collector

धनकर आयुक्त कार्यालय, हरियाणा

रोहतक, 11 दिसम्बर, 1980

धनकर

क्र० आ० 3641.—यह केन्द्रीय सरकार की राय है कि लोकहित में यह आवश्यक तथा समीचीन है कि धनकर अधिनियम, 1957 (1957 का 27) के अधीन यहाँ इसमें पश्चात बिनिर्विष्ट ऐसे करदाताओं के नाम तथा अन्य विनिर्दिष्ट प्रकाशित की जाए, जिसका शुद्ध धन वित्तीय वर्ष 1979-80 के दौरान 10 लाख रुपये से अधिक निर्धारित किया गया है ;

और यह धनकर अधिनियम, 1957 (1957 का 27) की धारा 42क द्वारा प्रदत्त शक्तियों का तथा इस निमित्त उसे समर्थ बनाने वाली अन्य सभी शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार ने अपने आदेश दिनांक 7 जनवरी, 1975 के द्वारा धनकर के सभी आयुक्तों को अपने क्षेत्राधिकार में स्थित करदाताओं से सम्बन्धित नाम, पते, हैसियत तथा निर्धारण वर्ष तथा ऐसे करदाताओं द्वारा विवरणित धन, निर्धारित किए गए धन तथा वित्तीय वर्ष 1979-80 के दौरान देय धनकर तथा दिए गए धनकर को प्रकाशित करने के लिए प्राधिकृत किया है ,

अतः यह केन्द्रीय सरकार के उपर्युक्त दिनांक 7 जनवरी, 1975 के आदेश के अनुसार प्रदत्त शक्तियों का प्रयोग करते हुए, मैं एतद्द्वारा इससे संबन्धित अनुमोदित में उपर्युक्त करदाताओं के नाम तथा विनिर्दिष्ट प्रकाशित करता हूँ।

[क्र० सं० 418(5)/79-80 मुख्या०]

टी० आर० अग्रवाल, धनकर आयुक्त

- श्रीमती भागवती देवी गनेरीबाला, मिरमा (I) 'आई' (II) 1978-79 (III) रु० 2414800/- (IV) रु० 2476630/- (V) रु० 63935/- (VI) रु० 63935/-
- श्रीमती भागवती देवी गनेरीबाला, मिरमा (I) 'आई' (II) 1979-80 (III) रु० 2636800/- (IV) रु० 2713700/- (V) रु० 68750/- (VI) रु० 68750/-
- श्री गिरीश मोहन गनेरीबाला, मिरमा (I) 'आई' (II) 1978-79 (III) रु० 2197700/- (IV) रु० 2259500/- (V) रु० 52830/- (VI) रु० 52830/-
- श्री गिरीश मोहन गनेरीबाला, मिरमा (I) 'आई' (II) 1979-80 (III) रु० 2317300/- (IV) 2319598/- (V) रु० 5598/- (VI) रु० 5598/-
- सेठ नन्द लाल गनेरीबाला, मिरमा (I) 'आई' (II) 1975-76 (III) रुपये 2598900/- (IV) रुपये 2633540/- (V) 130680/- (VI) रु० 130680/-
- सेठ नन्द लाल गनेरीबाला, मिरमा (I) 'आई' (II) 1976-77 (III) रुपये 2617000/- (IV) रुपये 2661450/- (V) 132916/- (VI) रुपये 132916/-
- सेठ नन्द लाल गनेरीबाला, मिरमा (I) 'आई' (II) 1977-78 (III) रुपये 2606100/- (IV) रु० 2886970/- (V) रुपये 67094/- (VI) रुपये 67094/-
- सेठ नन्द लाल गनेरीबाला, मिरमा (I) 'आई' (II) 1978-79 (III) रुपये 2710000/- (IV) रुपये 2729300/- (V) रुपये 69276/- (VI) रुपये 69276/-
- सेठ नन्द लाल गनेरीबाला मिरमा (I) 'आई' (II) 1979-80 (III) रुपये 2883700/- (IV) रुपये 2933500/- (V) रुपये 60723/- (VI) रुपये 60723/-
- चन्द्र देवी गरोडिया, फरीदाबाद (I) 'आई' (II) 1979-80 (III) रुपये 1148700/- (IV) रुपये 1163305/- (V) 17833/- (VI) रुपये 17833/-
- सुशीला देवी गरोडिया, फरीदाबाद (I) 'आई' (II) 1979-80 (III) रुपये 1087800/- (IV) रुपये 1097570/- (V) 16195/- (VI) रुपये 16195/-

Office of the Commissioner of Wealth Tax, Haryana

Rohtak, the 11th December, 1980

WEALTH-TAX

S.O. 3641.—Whereas the Central Government is of the opinion that it is necessary and expedient in the public interest to publish the names and other particulars hereinafter specified relating to assesses who have been assessed under the Wealth-tax Act, 1957 (27 of 1957) as net wealth exceeding Rs. 10 lakhs during financial year 1979-80.

And whereas in exercise of the powers conferred by section 42A of the Wealth-tax Act, 1957 (27 of 1957) and all other powers enabling them in this behalf the Central Government has by its order dated 7th January 1975 authorised all Commissioners of Wealth-tax to publish the names,

addressees, status and assessment year relating to assessee within their jurisdiction and wealth returned by, the wealth assessed on the wealth-tax payable and the wealth-tax paid by such assessee during the financial year 1979-80.

Now, therefore, in exercise of the powers conferred upon me by the Central Government by its aforesaid order dated 7th January, 1975, I hereby publish in Schedule, hereto annexed, the names and other particulars of the assessee aforesaid.

[F. No. 418(5)/79-80/HQ]

T. R. AGGARWAL, Commissioner of Wealth Tax

INCOME-TAX DEPARTMENT

Names of all wealth-tax assessee assessed on net wealth exceeding Rs. 10 lakhs during the financial year 1979-80 (i) stands for status 'I' for Individual (ii) for assessment year (iii) for net wealth returned (iv) for net wealth assessed (v) for tax payable and (vi) for tax paid.

1. Smt. Bhagwati Devi Ganeriwala, Sirsa (i) I (ii) 1978-79 (iii) Rs. 2414800/- (iv) Rs. 2476630/- (v) Rs. 63935/- (vi) Rs. 63935/-.
2. Smt. Bhagwati Devi Ganeriwala, Sirsa (i) I (ii) 1979-80 (iii) Rs. 2636800/- (iv) Rs. 2713700/- (v) Rs. 68750/- (vi) Rs. 68750/-.
3. Sh. Girish Mohan Ganeriwala, Sirsa (i) I (ii) 1978-79 (iii) Rs. 2197300/- (iv) Rs. 2259500/- (v) Rs. 52830/- (vi) Rs. 52830/-.
4. Shri Girish Mohan Ganeriwala, Sirsa (i) I (ii) 1979-80 (iii) Rs. 2317300/- (iv) Rs. 2349598/- (v) Rs. 55986/- (vi) Rs. 55986/-.
5. Seth Nand Lal Ganeriwala, Sirsa (i) I (ii) 1975-76 (iii) Rs. 2598900/- (iv) Rs. 2633540/- (v) Rs. 130680/- (vi) Rs. 130680/-.
6. Seth Nand Lal Ganeriwala, Sirsa (i) I (ii) 1976-77 (iii) Rs. 2617000/- (iv) Rs. 2661450/- (v) Rs. 132916/- (vi) Rs. 132916.
7. Seth Nand Lal Ganeriwala, Sirsa (i) I (ii) 1977-78 (iii) Rs. 2606400/- (iv) Rs. 2666970/- (v) Rs. 67094/- (vi) Rs. 67094/-.
8. Seth Nand Lal Ganeriwala, Sirsa (i) I (ii) 1978-79 (iii) Rs. 2710000/- (iv) Rs. 2729300/- (v) Rs. 69276/- (vi) Rs. 69276/-.
9. Seth Nand Lal Ganeriwala, Sirsa (i) I (ii) 1979-80 (iii) Rs. 2883700/- (iv) Rs. 2933500/- (v) Rs. 60723/- (vi) Rs. 60723/-.
10. Chander Devi Garodia, Faridabad (i) I (ii) 1979-80 Rs. 1148700/- (iv) Rs. 1163305/- (v) Rs. 17833/- (vi) Rs. 17833/-.
11. Sushila Devi Garodia, Faridabad (i) I (ii) 1979-80 (iii) Rs. 1087800/- (iv) Rs. 1097570/- (v) Rs. 16195/- (vi) Rs. 16195/-.

आयकर आयुक्त कार्यालय, हरियाणा

रोहतक, 11 दिसम्बर, 1980

आयकर

का० आ० 3642.—केन्द्रीय सरकार की राय है कि लोकहित में यह आवश्यक तथा समीचीन है कि 31-3-1980 को दो वर्ष या अधिक की अवधि के लिए, 1,00,000/- रु० अथवा उससे अधिक कर की अवधि में चूक करने वाले व्यक्तियों से सम्बन्धित यहाँ इसके पश्चात् विनिर्दिष्ट नाम तथा अन्य विविधियाँ प्रकाशित की जाएँ ;

और यतः आयकर अधिनियम (1961 का 43) की धारा 287 द्वारा प्रदत्त शक्तियों तथा इस निमित्त उसे समर्थ बनाने वाली अन्य सभी शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ने अपने आदेश दिनांक 10 अगस्त, 1977 द्वारा सभी आयकर आयुक्तों को वित्तीय वर्ष 1979-80 के अन्त में उनके अधिकार क्षेत्र के भीतर स्थित करदाताओं से सम्बन्धित नाम, पते तथा कर चूक की राशि प्रकाशित करने के लिए प्राधिकृत किया है ;

अतः अब केन्द्रीय सरकार द्वारा दिनांक 10 अगस्त, 1977 के पूर्वार्ध आदेश द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं इससे संलग्न अनुसूची में पूर्वार्ध करदाताओं के नाम तथा अन्य विविधियाँ एनबद्धा प्रकाशित करता हूँ।

[का० स० 418 (3) /79-80/मुद्राप्रानय]

टी० आ० अग्रवाल, आयकर आयुक्त

आयकर विभाग हरियाणा, रोहतक

आयकर अधिनियम, 1961 की धारा 287 के अधीन चूककर्ताओं की सूची जैसी 31-3-1980 को थी (1) चूक की कुल रकम के लिए जो दो वर्ष और उससे अधिक अवधि के लिए है।

1. श्री ब्यास देव डोगरा प्रोप्राइटर मैसर्स डोगरा स्टील इंडस्ट्रीज, फरीदाबाद (1) रु० 5,49,938/-
2. मैसर्स हाऊस होल्ड जनरल मिल्स, (प्रा०) लिमिटेड, सोनीपत (1) रु० 1,06,000/-

Office of the Commissioner of Income Tax, Haryana

Rohtak, the 11th December, 1980

INCOME-TAX

S.O. 3642.—Whereas the Central Government is of the opinion that it is necessary and expedient in the public interest to publish the names and other particulars hereinafter specified relating to persons in default of payment of tax of Rs. 1,00,000 or more for periods exceeding 2 years or more as on 31st March, 1980.

And whereas in exercise of the powers conferred by section 287 of the Income-tax Act (43 of 1961) and all other powers enabling them in this behalf the Central Government by its order dated 10th August, 1977 authorised all the Commissioners of Income-tax to publish the names, addresses and the amount of tax in default relating to assessee within their jurisdiction as at the end of financial year 1979-80.

Now, therefore, in exercise of the powers conferred on me by the Central Government by its aforesaid order dated 10th August, 1977, I hereby publish in the schedule, hereto annexed, the names and other particulars of the assessee aforesaid.

[F. No. 418(3)/79-80/HQ]

T. R. AGGARWAL, Commissioner of Income-tax.

INCOME TAX DEPARTMENT, HARYANA, ROHTAK

List of defaulters as on 31st March, 1980 u/s. 287 of the Income-tax Act, 1961, (i) for total amount in default for a period of two years or more.

1. Shri Bias Dev Dogra prop. M/s. Dogra Steel Industries, Faridabad (i) Rs. 5,49,938.
2. M/s. House Hold General Mills, (P) Ltd., Sonapat (i) Rs. 1,06,000.

बाणिज्य मंत्रालय

नई दिल्ली, 10 दिसम्बर, 1980

(काफी विवरण)

का० आ० 3643.—काफी नियम, 1955 के नियम 3 (2) के साथ पठित काफी अधिनियम, 1942 (1942 का 7) की धारा 4 (2) (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निम्नलिखित व्यक्तियों को 15 फरवरी, 1981 तक अथवा विद्यमान काफी बोर्ड के पुनर्गठन की तारीख तक के लिए उनके सामने दशाये

गये पक्षों का प्रतिनिधित्व करने के लिए विद्यमान रिक्त स्थानों में काफी बार्ड के सदस्यों के रूप में नियुक्त करनी है :—

MINISTRY OF COMMERCE

New Delhi, the 10th December, 1980

COFFEE CONTROL

S.O. 3643.—In exercise of the powers conferred by section 4(2)(c) of the Coffee Act 1942 (7 of 1942), read with rule 3(2) of the Coffee Rules, 1955, the Central Government appoint the following persons as members of Coffee Board in the existing vacancies to represent the interest shown against them until 15th February 1981, or the date on which the existing Coffee Board is reconstituted:

1. श्री के० एम० ईश्वरन, बड़े उपजकर्ता
किड्बोटा एस्टेट
सीमवारपेट, उत्तर कुर्ग,
कर्नाटक।
2. श्री एम० जे० विजय पदमन, बड़े उपजकर्ता
विजय महल, कालपेट्टा,
केरल।
3. श्री आर० रमन नाथार, श्रमिक
प्रेमीडेट, नीलगिरी डिस्ट्रिक्ट
एस्टेट वर्कर्स यूनियन,
'रोकेबाई' क्लब,
नीलगिरी।
4. श्री बी० के० राय, आन्ध्र प्रदेश सरकार
सचिव,
वन तथा ग्रामीण विकास विभाग,
आन्ध्र प्रदेश सरकार,
हैदराबाद।
5. निवेशक, तमिलनाडु सरकार
उद्यान विज्ञान तथा वागम फसल,
धर्मपुरी,
तमिलनाडु।
6. प्रबन्ध निवेशक, अन्य पक्ष
राष्ट्रीय सहकारी उपभोक्ता परिसंघ,
नई दिल्ली।

1. Shri K. S. Eswaran, Large
Kibbatta Estate,
Somwarpet,
North Coorg,
Karnataka. Growers.
2. Shri M. J. Vijaya Padman, Large
Vijaya Mahal Kalpetta,
Kerala. Growers.
3. Shri R. Raman Nair, Labour
President,
Nilgiri Dist.
Estate Workers' Union,
'Rokeby',
Coonoor
Nilgiris.
4. Shri B. K. Rao, Government
Secretary,
Deptt. of Forest & Rural Development,
Govt. of Andhra Pradesh, of Andhra Pradesh.
Hydrabad. Pradesh.
5. Director of Horticulture and Plantation Government
Crops, of Tamil
Dharmapuri, Nadu.
Tamil Nadu.
6. Managing Director, Other interests.
National Cooperative Consumers Federation,
New Delhi.

[फा० सं० 1(1)/77-यागान (ख)]

ए० पी०, उप सचिव

[File No. 1/1/77-Plant(B)]

A. GHOSH, Dy. Secy.

नागरिक सूक्ति संभालय

भारतीय मानक संस्था

नई दिल्ली, 1980-12-04

का०आ० 3644.—समय समय पर संशोधित भारतीय मानक संस्था प्रमाणन (चिह्न) विनियम 1955 के उपविनियम (4) के विनियम 14 के अनुसार भारतीय मानक संस्था एन०आर० सूचित किया जाता है कि जिन लाइसेंस संख्या सीएम/एन-6574 के विवरण नोवे अनुप्राप्ति में दिए गए हैं 21 अप्रैल 1979 से रद्द कर दिया गया है।

अनुसूची

क्र० लाइसेंस संख्या और मं० तिथि	लाइसेंसधारी का नाम और पता	रद्द किए गए लाइसेंस के अधीन वस्तु /प्रक्रिया	सम्बन्धी भारतीय मानक
(1)	(2)	(3)	(4)
1. सीएम/एन-6584 1977-12-16	मेसर्स ऐश्रो इन्स्ट्रुमेंट प्रा० लि०, कुमारपटनम डाकघर, कावेलेट्टू गाँव, रानीवेलूर तालुक, धारवाड़ जिला (निकट हरिहर रेलवे स्टेशन) (कर्नाटक) इतका कार्यालय 87, III मेन रोड, तारामुपेट, बंगलूर-560002 (कर्नाटक) से है	बीएसमी जन परिशेषी मान्द्र घूर्ण	IS : 562-1978 बीएसमी (एचसीएस) जल परिशेषी मान्द्र घूर्ण की विधि (चतुर्थ पुनरीक्षण)

[स० सीएमडी/55 : 6574]

MINISTRY OF CIVIL SUPPLIES

(Indian Standards Institution)

New Delhi, the 1980-12-04

S.O. 3644.—In pursuance of sub-regulation (4) of regulation 14 of the Indian Standards Institution (Certification Marks) Regulations 1955 as amended from time to time, the Indian Standards Institution hereby notifies that Licence No. CM/L-6574 particulars of which are given in the Schedule below has been cancelled with effect from Twenty first April, One Thousand Nine Hundred and Seventy nine.

SCHEDULE

Sl. No.	Licence No. and Date	Name & Address of the Licensee	Article/Process Covered by the Licence Cancelled	Relevant Indian Standards
(1)	(2)	(3)	(4)	(5)
1.	CM/L-6574 1977-12-16	M/s. Agro Inputs Pvt. Ltd., Kumarapatna Post, Kavelettu Village, Raniben-nur Taluk, Dharwar Dist (Near Harihar R.S.) (Karnataka) having their office at No. 87, III Main Road, New Tharaguppi, Bangalore-560002 (Karnataka).	BHC WDP	IS : 562-1978 Specification for BHC (HCH) Water Dispersible Powder Concentrates (Fourth Revision).

[CMD/55 : 6574]

का.अ. 3645.—समय समय पर मशोर्धित भारतीय मानक संस्था (प्रमाणन चिन्ह) विनियम 1955 के उपविनियम (4) के विनियम 14 के अनुसार भारतीय मानक संस्था एन.डी.ए.ए. सूचित किया जाता है कि जिन लाइसेंस संख्या सीएम/एल-6664 के विवरण नीचे अनुसूची में दिए गए हैं 15 सितम्बर 1980 से रद्द कर दिया गया है क्योंकि फर्म ने अपना अलाइमेंट वापस कर दिया है :-

अनुसूची

क्रम सं०	लाइसेंस संख्या और तिथि	लाइसेंसधारी का नाम और पता	रद्द किए गए लाइसेंस के अधीन वस्तु/प्रक्रिया	सम्बन्धी भारतीय मानक
(1)	(2)	(3)	(4)	(5)
1.	सीएम/एल-6664 1978-01-30	सेसर्स अहलवात ऐग्री केमिकल्स, अहलवात भवन बड़ौता, जिला मेरठ	बाएचसी (एचसीएच धूलन चूर्ण)	IS : 561-1978 बीएचसी (एचसीएच) धूलन चूर्ण की विनिर्दिष्ट (चतुर्थ पुनरीक्षण)

[सी एम डी/55 : 6664]

ए० पी० बनर्जी, अवर महानिदेशक

S.O. 3645.—In pursuance of sub-regulation (4) of regulation 14 of the Indian Standards Institution (Certification Marks) Regulations 1955 as amended from time to time, the Indian Standards Institution hereby notifies that Licence No. CM/L-6664 particulars of which are given in the Schedule below has been cancelled with effect from 15 September 1980.

SCHEDULE

Sl. No.	Licence No. and Date	Name & Address of the Licensee	Article/Process Covered by the Licence Cancelled	Relevant Indian Standards
(1)	(2)	(3)	(4)	(5)
1.	CM/L-6664 1778-01-30	M/s. Ahlawat Agro Chemicals, Ahlawat Bhavan, Baraut, Dist. Meerut.	BHC (HCH) Dusting Powders.	IS : 561-1978 Specification for BHC (HCH) Dusting Powder (FOURTH REVISION).

[CMD/55 : 6664]

A. P. BANERJI, Addl. Director General

पेट्रोलियम, रसायन और उर्वरक मंत्रालय

(रसायन और उर्वरक विभाग)

नई दिल्ली, 9 दिसम्बर, 1980

क्र० आ० 3646.—मर्यादित परिमर (अनधिकृत कब्जे की बेदखली) अधिनियम, 1971 (1971 का 10) की धारा 3 द्वारा प्रदत्त शक्तियाँ का प्रयोग करते हुए केन्द्रीय सरकार एन.डी.ए. हिन्दुस्तान इन्सेक्टिसाइड्स लि०, गुरु गोबिन्द सिंह मार्ग, नई दिल्ली के कार्यकारी अधिकारी को उक्त अधिनियम के परोक्ष के लिये सम्पदा अधिकारी के रूप में नियुक्त करती है और यह निवेदन देती है कि उक्त अधिकारी कर्मपुरा, नई दिल्ली के निज हिन्दुस्तान इन्सेक्टिसाइड्स लि०, टाउनशिप, की आवासीय कालोनी के सत्र में उक्त अधिनियम द्वारा अथवा उसके अन्तर्गत प्रदत्त शक्तियों और सम्पदा अधिकारी के कर्तव्यों का पालन करेगा।

[एन-48028(1)/78-पेस्ट]

एम० एस० खुराना, अवर सचिव

MINISTRY OF PETROLEUM, CHEMICALS AND FERTILISERS

(Department of Chemicals and Fertilisers)

New Delhi, the 9th December, 1980

S.O. 3646.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the Executive Officer, Hindustan Insecticides Limited, Guru Gobind Singh Marg, New Delhi to be the estate officer for the purpose of the said Act, and further directs that the aforesaid officer shall exercise the powers conferred, and perform the duties imposed on the estate officer by or under the said Act, in respect of the Housing Colony 'Hindustan Insecticides Limited' Township near Karampura, New Delhi.

[L 48028/1/78-Pest]

A. K. BORAL, Under Secy.

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 11 दिसम्बर, 1980

क्र० आ० 3647.—पशुधन आयात अधिनियम, 1898 (1898 का अधिनियम 9) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार 27-11-1980 से 6 माह की अवधि के लिए इंग्लैण्ड, आयरलैण्ड, फ्रांस, अमेरिका, आस्ट्रेलिया, जर्मन संघीय गणराज्य, बेल्जियम तथा जापान से अथवा ज़ारियों के भारत में आयात पर प्रतिबंध लगाती है। किन्तु इस प्रतिबंध से 4 वर्ष तक के उन बछड़ों तथा बछड़ियों के आयात पर छूट रहेगी जिनका कभी मिलाव नहीं हुआ है और जो प्रजनन स्टॉक के सम्पर्क में नहीं रहे हैं, बशर्ते कि—

1. अधिनियम के अन्तर्गत उल्लिखित स्वास्थ्य नियमों के अतिरिक्त युवा पशुओं के साथ प्राधिकृत पशु चिकित्सक का स्वास्थ्य प्रमाण पत्र हो, जिस में उल्लेख किया गया हो कि पिछले एक वर्ष से वे पशु प्रजनन में काम आने वाले पशुओं के सम्पर्क में नहीं आए हैं तथा निर्यात के लिए पोत पर लाने के 30 दिनों के अन्दर लगातार तीन बार परीक्षण करने पर इन पशुओं से शिशनचर्म एवं सूत्रनली/गर्भनली तथा गर्भाशय ग्रीवा में प्राण प्रथ का मानक व लसीय पद्धति द्वारा कल्चर करने पर उन में मसामक कीटाणु विशेषकर हीमोफिलस टैबिडेनेटीडेलस नहीं पाए गए।

2. भारत में इन पशुओं का आयात होने पर उन्हें 30 दिन तक कृषि मंत्रालय द्वारा स्वीकृत आवास स्थान पर रखा जाएगा। संसदीय का अधि के दौरान पशुओं की मान्यताप्राप्त प्रयोगशाला द्वारा एक सप्ताह के अंतराल पर लगातार तीन बार जीवाणु विज्ञान संबंधी कल्चर परीक्षा की जाएगी तथा उन्हें मसामक गर्भाशय (कार्टेजियस एक्वाईन मेटास्टैटिस) रोग में अग्रभाषित घोषित कर दिए जाने पर ही अन्य पशुओं में मिलाव जाएगा।

[म० 50-22/77-एन० सी० टी० (एन० एन० ए० ए० ए०) भाग 2]

एम० एस० खुराना, अवर सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 11th December, 1980

S.O. 3647.—In exercise of the powers conferred by sub-section (i) of Section 3 of the Livestock Importation Act 1898 (Act 9 of 1898), the Central Government hereby prohibits for a period of six months with effect from 27th November, 1980 the import from U.K., Ireland, France, U.S.A., Australia, Federal Republic of Germany, Belgium and Japan of the equine species of animals except Colts and Fillies upto 4 years of age which have never been mated and have not been in contact with breeding stock provided that :—

- (a) in addition to the health requirements specified under the Act the young equines are accompanied by a Veterinary Health Certificate from an authorised Veterinarian that the animals have not been in contact with the breeding stock during the last one year and that the swabs collected from prepuce and Urethra/Vagina and Cervix of these animals were found negative for pathogenic micro-organisms specifically Haemophilus equigenitalis, by standard cultural and Serological methods, on three consecutive testings within 30 days of embarkation for export.
- (b) on receipt on India such imported animals are kept in quarantine for 30 days at the premises approved by the Ministry of Agriculture. During the quarantine period the animals shall be subjected to bacteriological and Serological examination by a recognised laboratory on three consecutive tests conducted at weekly interval and will be mixed with other stock only when declared negative for contagious equine metritis infection.

[No. 50-22/77-LDT(LH-AQ) Part III]

M. S. KHURANA, Under Secy.

शिक्षा तथा संस्कृति मंत्रालय

(शिक्षा विभाग)

आदेश

नई दिल्ली, 10 दिसम्बर, 1980

क्र० आ० 3648.—आरोविन (आपतकालीन उपबन्ध) अध्यादेश, 1980 (1980 का 19) की धारा 6 की उपधारा (1) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए, केन्द्रीय सरकार आरोविन अन्तर्राष्ट्रीय सलाहकार परिषद् का गठन करती है।

2. उपर्युक्त अध्यादेश की धारा 6 की उपधारा (4) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए, केन्द्रीय सरकार निम्नलिखित व्यक्तियों को अपने आदेशों तक उक्त परिषद् के सदस्यों के रूप में नियुक्त करती है—

1. श्रीमती लुबिमला शिवकावा
2. श्री अमादाउ-महतर एम० बउ
3. श्री पी० सी० नरसिंह राव
4. श्री जे० आर० सी० टाटा

3. यह आदेश उच्चतम न्यायालय में लम्बित कार्यवाही में दिये जाने वाले अन्तिम आदेशों के अन्तर्गत होगा।
राष्ट्रपति के आदेश से तथा उनके नाम से।

[फा० सं० ५-5/80-निति-नियम-1]

एम० आर० कोल्हाटकर, संयुक्त सचिव

MINISTRY OF EDUCATION AND CULTURE

(Department of Education)

ORDER

New Delhi, the 10th December, 1980

S.O. 3648.—In exercise of the powers conferred by sub-section (1) of section 6 of the Auroville (Emergency Provisions) Ordinance, 1980, (19 of 1980), the Central Government hereby constitutes the Auroville International Advisory Council.

2. In exercise of the powers conferred by sub-section (4) of section 6 of the said Ordinance, the Central Government hereby appoints the following persons as Members of the said Council, till further orders :—

- (1) Mrs. Ludmila Zhivkova
- (2) Mr. Amadou-Mahtar M'Bow
- (3) Mr. P. V. Narasimha Rao
- (4) Mr. J. R. D. Tata

3. The above is subject to the final orders of the Supreme Court in the proceedings pending before it.

By order and in the name of the President.

[No. F. 8-5/80-PN-I]

M. R. KOLHATKAR, Jt. Secy.

नौवहन और परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 8 दिसम्बर, 1980

फा०आ० 3649.—केन्द्रीय सरकार, दीपघर अधिनियम, 1927 (1927 का 17) की धारा 4 की उपधारा (1) के अनुसरण में एन० द्वारा भारत सरकार नौवहन और परिवहन मंत्रालय (परिवहन पक्ष) की समय-समय पर संशोधित अधिसूचना संख्या 3382 दिनांक 13 नवम्बर, 1978 के द्वारा दीपघरों के लिए गठित केन्द्रीय सलाहकार समिति की अवधि को 20 नवम्बर, 1980 से छह माह की अवधि के लिए अथवा नई समिति के गठित होने, उन दोनों में जो भी पहले हो, तक के लिए और आगे बढ़ाती है।

[स० एम० डब्ल्यू०/एल० एल० ई०/60/80]

विश्वनाथ शर्मा, अवर सचिव

MINISTRY OF SHIPPING & TRANSPORT

(Shipping Wing)

New Delhi, the 8th December, 1980

S.O. 3649.—In pursuance of sub-section (1) of section 4 of the Lighthouse Act, 1927 (17 of 1927), the Central Government hereby extends the tenure of the Central Advisory Committee for Lighthouses, appointed by the notification of the Government of India in the Ministry of Shipping and Transport (Transport Wing) No. S.O. 3382 dated the 13th November, 1978 as amended from time to time, for a further period of six months with effect from 20th November, 1980 or till the new Committee is reconstituted, whichever is earlier.

[No. SW/LLE-60/80]

V. N. SHARMA, Under Secy

निर्माण और आवास मंत्रालय

नई दिल्ली, 12 दिसम्बर, 1980

फा०आ० 3650.—यह केन्द्रीय सरकार का दिल्ली की वृहत योजनाओं में एन० द्वारा उल्लिखित क्षेत्रों के क्षेत्रों में कृत्रिम संशोधन करने का विवरण है। दिल्ली विकास अधिनियम, 1957 (1957 का 61) की धारा 11 के प्रावधानों के अनुसार दिनांक 26-1-1980 का ज्ञापन संख्या एफ० 4(18)/56-एम० पी० के साथ प्रकाशित हुए थे। उक्त अधिनियम की धारा 11 ए की उपधारा (3) में यथा अपेक्षित उक्त नोटिस की तिथि से 30 दिन के अन्दर आपत्ति/सुझाव आमन्त्रित किये गये थे।

तथा यह: केन्द्रीय सरकार ने उक्त संशोधन में सम्बन्धित आपत्तियों तथा सुझावों पर विचार करने के पश्चात् दिल्ली की वृहत योजना में संशोधन करने का निर्णय किया है।

अब अतः उक्त अधिनियम की धारा 11(क) की उपधारा (2) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार दिल्ली की वृहत योजना में उस तिथि से निम्नलिखित संशोधन करती है जिस तिथि को यह अधिसूचना भारत के राजपत्र में प्रकाशित होगी।

संशोधन

"जी-10 (मादीपुर) के खण्ड क्षेत्र के लगभग 125.23 हेक्टेयर (433 एकड़) क्षेत्रफल, जिसके उत्तर में 60.9 मी० (200 फुट) चौड़ा मार्ग, पूर्व में रिफ्यूजी कोऑपरेटिव हाऊस बिल्डिंग सोसायटी लि० (पंजाबी बाग) क्षेत्र जी०-9 तथा जी० 17 क्रमशः दक्षिण तथा पश्चिम में है, की मुख्य योजना सकल आवासीय घनता 185 व्यक्ति प्रति हेक्टेयर (75 व्यक्ति प्रति एकड़) से 247 व्यक्ति प्रति हेक्टेयर (100 व्यक्ति प्रति एकड़) में संशोधित किया जाता है।"

[स० के०-13012/3/77-यू० डी०-1/11 ए०]

एम० बालाकृष्णन, डेस्क अधिकारी

MINISTRY OF WORKS AND HOUSING

New Delhi, the 12th December, 1980

S.O. 3650.—Whereas certain modification, which the Central Government proposes to make in the Master Plan for Delhi regarding the areas mentioned here under, was published with Notice No. F. 4(18)/66-MP, dated 26-1-1980 in accordance with the provisions of section 44 of the Delhi Development Act, 1957 (61 of 1957) inviting objections/suggestions, as required by sub-section (3) of section 11-A of the said Act, within thirty days from the date of the said notice;

And whereas the Central Government after considering the objections and suggestions with regard to the said modification mentioned hereunder, have decided to modify the Master Plan for Delhi;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 11-A of the said Act, the Central Government hereby makes the following modification in the said Master Plan for Delhi with effect from the date of publication of this notification in the Gazette of India, namely :—

MODIFICATION

"Master Plan gross residential density of 185 ppha (75 ppa) in part zone G-10 (Madipur) for an area, measuring about 175.23 hectares (433 acres), bounded by 60.9 metres (200 ft.) wide road in the north, Refugee Cooperative House Building Society Ltd., (Punjabi Bagh) in the East, Zones G-9 and G-17 in the South and West respectively, is modified as 247 persons per hectare (100 person per acre)."

[No. K-13012/3/77-UDI-II-A]

S. BALAKRISHNAN, Desk Officer

सम्पदा निदेशालय

नई दिल्ली, 11 दिसम्बर, 1980

का० आ० 3651—राष्ट्रपति, सरकारी निवास स्थान आवाहन (दिल्ली में असाधारण पूल) नियम, 1963 के अनुसूचक नियम 317-ख-2 के खड्ड (ख) के अनुसूचक में भारत सरकार, निर्माण और आवास मन्त्रालय की अधिसूचना सं० का० आ० 3384 तारीख 19 अक्टूबर, 1978 में निम्नलिखित आशोधन करने है। अर्थात्—

कथित अधिसूचना में "1980" शब्दों के स्थान पर "1981" शब्द प्रतिस्थापित किए जाएंगे।

[सं० 12033(3)/80-नी० II]

राम स्वरूप गूद, संपदा उपनिदेशक (नीति)

(Directorate of Estates)

New Delhi, the 11th December, 1980

S.O. 3651.—In pursuance of clause (b) of S.R. 317-B-2 of the allotment of Government Residences (General Pool in Delhi) Rules, 1963, the President (hereby makes the following amendment in the notification of the Government of India in the Ministry of Works and Housing No. S.O. 3384, dated the 19th October, 1978, namely :—

In the said notification for the figures "1980", the figures "1981" shall be substituted.

[No. 12033(3)/80-Pol. II]

R. S. SOOD, Director of Estates (Policy)

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 8 दिसम्बर, 1980

का० आ० 3652—चलचित्र अधिनियम, 1952 की धारा 5(1) और चलचित्र (सेसर) नियम, 1958 के नियम 9 के उप-नियम (1) के साथ एडिस नियम 8 के उप नियम (3) के द्वारा प्रवृत्त अधिकारों का प्रयोग करने हेतु, केन्द्रीय सरकार ने एमद्वारा निम्नलिखित व्यक्तियों को सत्त्वान से अग्रणी आदेश तक, उक्त शोर्ट के बम्बई समाजकार पैनल का सदस्य नियुक्त किया है :—

1. श्री अ.ई० एच० पदमगु
2. डा० बी० जी० महादेवकर
3. श्री गुरुदाम श्री० कामत
4. श्री रामकान्त पीताम्बर देसाई
5. श्री दिनेश एन० देसाई
6. डा० आरम उस्मान शेख

[पत्र संख्या 811/4/80-एफ (सी)]

सुरेन्द्र कुमार शर्मा, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 8th December, 1980

S.O. 3652.—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of Rule 8 read with Sub-rule (1) of Rule 9 of the Cinematograph (Censorship) Rules, 1958 the Central Government hereby appoints the following persons, as Members of the Advisory Panel of the said Board at Bombay with immediate effect, until further orders :—

1. Shri I. H. Padamsee
2. Dr. B. G. Mahadeoker
3. Shri Gurudas V. Kamat

4. Shri Ramakant Pitamber Desai

5. Shri Dinesh N. Desai

6. Dr. Adam Usman Sheikh

[F. No. 811/4/80-F(C)]

S. K. SHARMA, Director (Films)

MINISTRY OF LABOUR

New Delhi, the 10th December, 1980

S.O. 3653.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Sub-Area Manager, Manikpur Colliery of Messrs Western Coal-fields Limited and their workmen, which was received by the Central Government on the 3rd December, 1980.

BEFORE SHRI A. G. QURESHI, M.A., LL.B., PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(32)/1980**PARTIES :**

Employers in relation to the management of Sub-Area Manager, Manikpur Colliery of M/s. Western Coal-fields Limited and their workmen represented through the M.P.C.W.F. (INTUC) Korba, P.O. Korba Colliery, District Bilaspur (M.P.)

APPEARANCES :

For Union.—None

For Management.—Shri P. S. Nair, Advocate.

INDUSTRY : Coal**DISTRICT : Bilaspur (M.P.)****AWARD**

November 26, 1980

The Government of India in the Ministry of Labour in exercise of the powers conferred on it by Clause 10(1)(d) of the Industrial Disputes Act 1947 has referred the following dispute for adjudication to this Tribunal vide Notification No. L-22011(21)/79-D. IV(B) dated 30-5-1980 :—

"Whether the demand of the Track Chain Shovel Operators at Manikpur Colliery of M/s. Western Coal-fields Limited, for placing them in Group 'B' is justified. If so, to what relief are the concerned workmen entitled?"

2. The M. P. Colliery Workers Federation had raised the dispute with the management of Manikpur Colliery for placing the Track Chain Shovel Operators in Group "B". The basis of the claim is that the Manikpur Colliery is an open cast quarry producing coal with the aid of heavy excavating machineries including the Shovels. Shovels are used for loading excavation coal in dumpers and tipping trucks which carry the coal to the loading point. These Shovels are mounted on track chain and hence are called Track Chain Shovels. These machines are operated by diesel engines and are capable of moving forward and backward and lift coal through its bucket and load it on the dumpers and tipping trucks. These machines are more sophisticated than the earlier Shovels which cannot move forward and backward and load. The bucket of these Shovels is more than 2-1/3 cubic yards. The operators operating these shovels are highly experienced officials who have been promoted to the present position after having acquired sufficient skill. Before their promotion the operators were selected after a test followed by one year's training. These operators at present are classified in Category "C" of National Coal Wage Agreement (II).

3. It has further been averred by the Union that highly sophisticated machines were used by the erstwhile National Coal Development Corporation Ltd. and the operators of those machines are governed by the Excavation award, according to which all the operations operating Electrical/Diesel Shovels/Track Line of a capacity of not less than 2-1/2 cubic yard are classified as Excavator Operators Gr. II. Although the award was superseded by the National Coal Wage Agreement (I) but it was in respect to wages only. The agreement did not change the categorisation or the job description of Excavator Operators Grade II. However, the excavating operators were placed in Category C by the Coal Wage Award and they continued in the new Agreement in the same category. The employees of the Excavation Section being aggrieved by the placement in Category C raised a dispute with the management of National Coal Development Corporation and as a result the dispute was referred to Central Government Industrial Tribunal No. 3 at Dhanbad. During the pendency of the dispute an agreement was arrived at between the management and the Union and it was decided that all the operators and technicians in Category C will be placed in the new Grade B meaning thereby that the Excavators Operators which included the Shovel Operators of a capacity not less than 2-1/2 cubic yards were placed in Group B. However, the management upgraded only those Shovel Operators who were working in such capacity at the time of the above mentioned agreement, but the terms of agreement were not applied to the persons who were subsequently appointed as Shovel Operators.

4. It has, further, been contained that the Track Chain Shovels were commissioned by the management in 1977 and the workmen concerned with the present dispute were selected for that job immediately thereafter. They were given training and after the successful completion of the training they were appointed as Shovel Operators, but they were not placed in Group B. The concerned workmen therefore raised a dispute through the Union and during conciliation proceedings the management was convinced that the demand of the Shovel Operators was justified. Therefore the local management recommended that the Shovel Operators will be placed in Group "B". But the Chief Engineer (Excavation) at Nagpur turned down the recommendations of the local management. The refusal of the Chief Engineer (Excavation) to accede to the demands of the Union is highly discriminatory and arbitrary because the persons who are operating less sophisticated machines are placed in Group B whereas the workmen concerned who are operating more sophisticated machines are placed in Group C. The wage scale categorisation and job description of the employees in excavation section is supplied by the recommendation of the Coal Wage Agreement, the terms of which are binding on the present management and therefore the present management had no justification to deny Group B wages to the concerned workmen. Therefore the Shovel Operators working in Track Chain Shovel machines be declared to be entitled to be classified in Group "B" and be paid wages of the aforesaid group B from the date of their demand.

5. The claim of the Union is resisted by the management on the ground that the Union has not given the correct description of the working of the machineries. The Track Chain Shovels are not sophisticated machines. They require only the simple operation and ability. The operators need not be highly experienced because of the simple nature of the operation. People with less experience can work the machines. About the agreement of placing the Shovel Operators in Group B it has been alleged that only those employees who were concerned with the agreement were placed in Group B. However, the concerned workmen in the present dispute on the basis of work, experience, ability etc. are not entitled to be placed in Group B. The work of the Track Chain Shovel Operators is not the same as that of the other Shovel Operators.

It has further been averred that in the Manikpur Colliery there are Track Shovel (Front end loaders) of Model No. 8023 of the make of Bharat Earth Movers, Bangalore with a bucket of the capacity of 2.3 Cu. Mtr. The operation of these Track Shovels is entirely different from other Shovels. The management considered all the aspects and decided that the workman concerned in the present dispute were entitled to Category "C" only. Therefore the demand of the workmen for placing them in Group B is not justified.

6. The Union after submission of the statement of claims chose to remain absent and did not adduce any evidence in support of its claim. The management has examined Shri S. S. Rath, Executive Engineer (Excavation) Manikpur Colliery in support of its case. He states that in Manikpur Colliery the concerned workmen are operating Tiek Shovels. They are not Track Chain Shovels. The operation of the Shovels and Track Shovels is technically different. Persons operating Tiek Shovels have lesser technic, qualification and experience. The technic and operation of the Track Shovels and mechanical know how is quite different and easier than the Shovel Excavators. Tiek Shovel is like D-80 Dozer except the bucket attachment. The operators of this machine need not be highly experienced. Group operators are more experience, more skilled having more technical know how. The witness has also given a list of the difference of the operation of Shovels and Track Shovels. The list giving the difference between the two machines is as under:—

Shovel	Front end loader (Track Shovel)
(1)	(2)
1. It is mounted on car body.	1. It is mounted on tractor.
2. It is having boom & dipper stick.	2. It does not have.
3. It is having wire ropes for beam and dipper stick.	3. -do-
4. It has got swing mechanism.	4. do-
5. It can load in any angle.	5. It can load only at 50°.
6. It has got lifting capacity up to 23'.	6. It can lift upto max. 12'.
7. It has lifting angle more than 90°.	7. It has got only 50'.
8. It can load 3 bucket in one minute.	8. It can load one bucket in one minute.
9. Its reach is from 4' to 18'.	9. Its reach is 43'37'.
10. Its engine capacity is 300 HP.	10. Its engine capacity is 180 HP.
11. It is Air-cum-fluid brake.	11. It is a hyd. operated.
12. At the time of operation operator has to look beam, dipper stick & control the swing speed.	12. At the time of operation Operator has to see its bucket and to move the machine upto the loading object
13. It has got a separate compressor for brakes and controls.	13. It does not have.
14. Condition of machine operation wants more skill.	14. Machine operation is simple
15. It can dig, heists and load with swing mechanism at all angles.	15. It cannot dig, only can lift and load on certain angle.
16. It has got the swing mechanism so it can load at any position.	16. It is a front end loader so it can load only on front.
17. It has got robust bucket and ropes so it can work on harder faces.	17. It is having weak arms bucket, and jack so it cannot work on hard faces
2.5 cu. yd. bucket capacity	2.3 cu. mt. bucket capacity.
	14. It is not a shovel as described under the Wage Board recommendation. It is a front end loader. There was no front end loader even

1

2

at the time of wage board recommendation came in the year 1967. Front end loader was manufactured in 1976 only.

7. From the aforesaid un rebutted evidence of Shri Rath it is manifest that the lifting capacity, loading angle capacity, the time consumed in loading a bucket, reach, engine horse power, the capacity of digging of the two machines is different and actually the Track Shovel is not a Shovel as described in the Wage Board recommendation. Therefore the work of the Track Shovel Operators is not the same as that of the other Shovel Operators. The Track Shovel is less sophisticated than the regular shovels and therefore does not require the same skill, experience and technical know-how as is required for operation of the regular shovel. Therefore I am of the view that the management has rightly placed the Track Shovel Operators in Group C.

8. In the result of the aforesaid, it is held that the demand of the Track Chain Shovel Operators at Manikpur Colliery of Western Coalfields Limited for placing them in Group B is not justified and the workmen concerned are not entitled to any relief.

A. G. QURESHI, Presiding Officer
[No. L-22011/21/79-D.IV(B)]

S. S. MEHTA, Desk Officer

श्रम मंत्रालय

नई दिल्ली, 12 दिसम्बर, 1980

क्र. 3654—बीडी कर्मकार कल्याण निधि नियम, 1978 के नियम 16 और नियम 3 के उपनियम (2) के साथ पठित बीडी कर्मकार कल्याण निधि अधिनियम, 1976 (1976 का अधिनियम 62) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, मध्य प्रदेश राज्य के लिए एक सहायक समिति गठित करती है, जिसके निम्नलिखित सदस्य होंगे और उक्त समिति का मुख्यालय निर्धारित किया है, अर्थात् --

- | | |
|--------------------------------------------------------------------------------------|------------------------|
| (1) राज्य मंत्री, श्रम
मध्य प्रदेश सरकार,
भापाल। | अध्यक्ष |
| (2) कल्याण आयुक्त,
श्रम कल्याण संगठन,
श्रम मंत्रालय,
16, नरबदा रोड, जबलपुर। | उपाध्यक्ष
(पदेन) |
| (3) उप श्रम आयुक्त,
सागर। | सदस्य (पदेन) |
| (4) श्री बाबुराव पिम्पलापुर,
पार्टनर मैसर्स ब्रिजलाल मणिलाल
एण्ड कं०, सागर। | नियोजक के
प्रतिनिधि |
| (5) श्री बी० बी० शुक्ला, जनरल सेक्रेटरी,
मध्य प्रदेश, बीडी उद्योग संघ, जबलपुर। | |
| (6) डा० एल० एन० सिलहकारी,
अध्यक्ष, बीडी मजदूर संगठन, सागर। | श्रमिकों के प्रतिनिधि |
| (7) श्री रति राम यादव,
अध्यक्ष, राष्ट्रीय बीडी मजदूर संघ,
खानियर। | |

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|---------------------------------------------------------------------|-----------------------|
| (8) श्री बेजनाथ चंद्राकर, निधान सभा सदस्य,
बीरसी, जिला बिलासपुर | श्रमिकों के प्रतिनिधि |
| (9) श्रीमती मजु देवी, मिहोर, जबलपुर। | महिला प्रतिनिधि |
| 2. केन्द्रीय सरकार उक्त समिति का मुख्यालय जबलपुर निर्धारित करती है। | |

[न० एस-24019/14/78-एम-5]

जगदीश प्रसाद, अवर सचिव

New Delhi, the 12th December, 1980

S. O. 3654.—In exercise of the powers conferred by Section 5 of the Beedi Workers Welfare Fund Act, 1976 (Act 62 of 1976) read with sub-rule (2) of rule 3 and rule 16 of the Beedi Workers Welfare Fund Rules, 1978, the Central Government hereby constitutes an Advisory Committee for the State of Madhya Pradesh consisting of following members and fixes the Headquarters of the said Committee namely:—

- | | |
|-------------------------------------------------------------------------------------------------------------------|-------------------------------|
| (1) Minister of State for Labour,
Government of Madhya Pradesh,
Bhopal. | Chairman |
| (2) Welfare Commissioner,
Labour Welfare Organisation,
Ministry of Labour
46, Narbada Road,
Jabalpur. | Vice-Chairman
(Ex-officio) |
| (3) Deputy Labour Commissioner,
Government of Madhya Pradesh,
Sagar. | Member
(Ex-officio) |
| (4) Shri Baburao Pimpalpure,
Partner M/s. Brijlal Manilal & Co.,
Sagar. | Employers'
representative |
| (5) Shri B. V. Shukla,
General Secretary,
Madhya Pradesh Beedi Udyog Sangh,
Jabalpur. | |
| (6) Dr. L. N. Silhakari,
President,
Bidi Mazdoor Sangthan,
Sagar. | Workers
representative |
| (7) Shri Rati Ram Yadav,
President,
Rashtriya Bidi Mazdoor Sangh,
Gwalior. | |
| (8) Shri Brijnath Chandrakar,
MLA.,
Laurmi,
Distt. Bilaspur. | |
| (9) Smt. Manju Devi,
Siheror,
Jabalpur. | Women
representative |

The Central Government hereby fixes Jabalpur to be headquarters of the said Advisory Committee.

[No. S-24019/14/78-M.V.]

JAGDISH PRASAD, Under Secy.

नई दिल्ली, 12 दिसम्बर, 1980

का० प्रा० 3655—नागालैण्ड राज्य सरकार न कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के खण्ड (घ) के अनुसरण में श्री के० एस० पुरी के स्थान पर श्री एन० जखालू, विशेष सचिव, नागालैण्ड सरकार, गृह विभाग एवं पदेन सचिव, श्रम विभाग का कर्मचारी राज्य बीमा निगम से उक्त राज्य का प्रतिनिधित्व करने के लिए नामनिर्देशित किया है ;

अन अद्य केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के अनुसरण में, भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का० प्रा० 850(अ) दिनांक 21 अक्टूबर, 1980 में निम्नलिखित संशोधन करता है, अर्थात् —

उक्त अधिसूचना में, "[राज्य सरकारों द्वारा धारा 4 के खण्ड (घ) के अधीन नामनिर्दिष्ट]" शीर्षक के नीचे क्रम संख्या 20 के सामने की प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात् —

"श्री एन० जखालू, विशेष सचिव,
नागालैण्ड सरकार,
गृह विभाग एवं पदेन सचिव,
श्रम विभाग, कोहिमा।

[स० यू०-16012/14/80-एच० आई०]

अ० पूनन, उप-सचिव

New Delhi, the 12th December, 1980

S.O. 3655.—Whereas the State Government of Nagaland has, in pursuance of clause (d) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948) nominated Shri N. Zakhalu, Special Secretary to the Government of Nagaland, Home Department and ex-officio Secretary, Labour Department to represent that State on the Employees' State Insurance Corporation, in place of Shri K. S. Puri ;

Now, therefore, in pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour No. S. O. 850(E), dated the 21st October, 1980, namely :—

In the said notification, under the heading "Nominated by the State Governments under clause (d) of section (4)", for the entry against serial number 20, the following entry shall be substituted, namely :—

"Shri N. Zakhalu,
Special Secretary to the Government of Nagaland,
Home Department and ex-officio Secretary,
Labour Department,
KOHIMA."

[No. U-16012/14/80-HI]

A. POONEN, Dy. Secy.

New Delhi, the 16th December, 1980

S.O. 3656.—In pursuance of section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the management of Western Coalfields Limited in relation to their Patherkhhera Mine No. 2 and their workmen, which was received by the Central Government on the 8th December, 1980.

BEFORE SHRI A. G. QURESHI, M.A., LL.B., PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(32)/1979

PARTIES :

Employers in relation to the management of Western Coalfields Limited in relation to their Patherkhhera Mine No. 2 and their workmen represented through the Bhartiya Koyla Khadan Mazdoor Sangh (HMS), Station Road, Post Office Chandametta, District Chhindwara (M.P.)

APPEARANCES :

For Union—Shri S. S. Shakarwar, Advocate.
For Management—Shri P. S. Nair, Advocate

INDUSTRY : Coal

DISTRICT : Chhindwara (M.P.)

AWARD

Dated : November 27, 1980

The Government of India in the Ministry of Labour in exercise of the powers conferred on it by Clause 10 (1)(d) of the Industrial Disputes Act 1947, has referred the following industrial dispute to this Tribunal for adjudication vide Order No. L-22012/18/78-D. IV(A) dated 22nd November, 1979 :—

"Whether the action of the General Manager, Western Coalfields Limited, Patherkhhera Area in changing the following eleven workmen from time-rated jobs to piece-rated jobs without giving notice as prescribed under Sec. 9A of the Industrial Disputes Act 1947, is justified? If not, to what relief are the concerned workmen entitled?"

Names of the Workmen :—

1. Shri Anand Rao S/o Shri Asaram.
2. Shri Birjoo, S/o Shri Asharam.
3. Shri Kishan, S/o Shri Jagnoo.
4. Shri Ramkishan, S/o Shri Ratan.
5. Shri Shyamlal, S/o Shri Umrao.
6. Shri Basnoo, S/o Shri Santoo.
7. Shri Sitaram, S/o Shri Jageshwar.
8. Shri Duamar Mandal, S/o Shri Nankoo Mandal.
9. Shri Sardar Singh, S/o Shri Polsa.
10. Shri Bharath, S/o Shri Ramdahan.
11. Shri Nar Singh, S/o Shri Nauang Singh.

2. Bhartiya Koyla Khadan Mazdoor Sangh, Madhya Pradesh has justified its demand on the pleadings that the workmen S/Shri Anand Rao, Birjoo, Kishan, Ramkishan, Shyamlal, Basnoo, Sitaram, Duamar Mandal, Sardar Singh, Bharat and Narsing were working in time rated jobs and were being paid accordingly. But the management for reasons, best known to them have changed their service conditions by forcing them to work as piece rated workers from time rated jobs in contravention of Section 9A of the Industrial Dispute Act 1947. The change of their service conditions without a notice under Section 9A of the Industrial Disputes Act 1947 is illegal. Therefore it be held that the action of the management was unjustified and the workmen are entitled to be taken back on their respective jobs which they were doing before the change in their service conditions.

3. The management has resisted the claim on the grounds that Shri Anand Rao S/o Shri Asaram is not working in Patherkhhera Colliery. Therefore no reply can be submitted in respect of this workman Shri Birjoo was appointed as Badli loader on 29th July, 1974. He absented without leave and intimation from 10th September, 1976 to 26th October, 1976. His services therefore came to an end automatically. However, on his application he was reinstated as Loader with effect from 28th October 1976. Subsequently he was transferred to Patherkhhera as Badli Loader by order dated 25th April, 1977 and he is still working as Badli Loader. Shri Kishan was appointed as Badli Loader with effect from 22nd October, 1970. He also remained absent from duty without intimation. So his services came to an end. However, on a sympathetic consideration on his application he

was reinstated by order dated 28th March, 1979 but till this date Shri Kishan has not joined the duties. Shri Ram Kishan was appointed as Loader from 27th August, 1975. He also remained absent without permission for a period of over one month and his services also came to an end. However, on his request he was given the post of Badli Loader from 28th October, 1976. Shri Shyam Lal was appointed as Badli Loader from 16th October, 1974. He also remained absent for a month without intimation and his services came to an end. On his making representation the management reinstated him as Badli loader on 28th October, 1976. Shri Basnoo was appointed as Badli Loader on 30, August 1975. He also remained absent for over a month without intimation and his services came to an end. However, on a sympathetic consideration the management reinstated him from 28th October, 1976 as Badli loader. Shri Sitaram was appointed as Badli loader on 6th November, 1973. He all through has been working as a loader and there is no question of changing his service conditions. Shri Duamar Mandal was appointed as Badli Loader from 12th September, 1974. He also remained absent for over a month and his services came to an end. However, on his request the management reinstated him as Badli Loader from 28th October, 1976. The same was the case of Shri Sardai Singh who was appointed as a Badli loaders on 29th August, 1975 and was given a fresh appointment after his termination as Badli loader on 12th May, 1977. Shri Bharat and Shri Narsingh were appointed as Badli loaders on 17th April, 1974 and 18th April, 1973 respectively and posted as Badli loaders. Since then they have been working in the same capacity and there is no change in their service conditions.

4. The management has therefore averred that in view of the aforesaid circumstances all the concerned workmen were working as Badli loaders and they are still continuing in the same capacity. There being no change in the service conditions a notice under Section 9A of the Industrial Disputes Act 1947, was not required.

5. By way of rejoinder the Union has said that Shri Anandrao's father name is Narain and there was some mistake about his father's name. Therefore it be corrected. About the other workmen the Union stated that all the workmen were working as time rated workers and were working in the same capacity till they were transferred from time rated to piece rated jobs.

6. The first question that arises for determination in the case is whether Shri Anandrao S/o Shri Asaram referred in the dispute is the same person who according to the Union is Anandrao S/o Sri Narain.

The Union has not led any evidence to show that Anandrao S/o Narain is the same person about whom a dispute was raised and that due to some mistake his father's name has been changed at the time of making the reference. Shri Anandrao S/o Sri Narain has been examined by the Union who states that he was working as Trammer in the mines. He has also produced his card. But the statement does not show that the reference has been made in respect of this workman. Shri Ravindra Singh who is the Additional General Secretary of the Bhartiya Kowli Khadan Mazdoor Sangh, the Union which has espoused the case of the workmen also does not state that the dispute of Shri Anandrao s/o Shri Narain Rao was actually espoused by the Union and the reference has wrongly been made in respect of Shri Anandrao s/o Shri Asaram. Therefore I have reason to hold that Shri Anandrao s/o Shri Narain is the same person about whom a reference has been made. The reference has been made actually in respect of Shri Anandrao s/o Shri Asaram who according to the management is not employed in the Colliery. Therefore I hold that the case of Shri Anandrao s/o Shri Narayan cannot be considered by this Tribunal.

7. As regards Shri Kishan s/o Shri Jagnoo, although the management has averred that he has not turned up on duty since his order transferring him as Badli loader, but the witness of the management Shri Gupta, Superintendent of Mine has stated before me that Shri Kishan being unfit to do the job of loader, he has been given a time rated job. This statement of Shri Gupta has not been rebutted by the Union. Therefore I hold that Shri Kishan having been absorbed in time rated job there is no dispute in existence regarding this workman.

8. Now we have to consider whether the management has changed the service conditions of the remaining nine workmen and whether such change is justified.

The pleading of the Union on this point is that all the workmen were appointed as Badli loaders initially and they are continuing in the same capacity till now, and there is no change in their service conditions. The witness of the management Shri Gupta who is the Superintendent of the Mines and was at the relevant time the Manager of the Colliery, however, makes a statement before the Tribunal just contrary to the averments made by the management. He in his examination-in-chief states that he was Manager of the Colliery (P.K. II Mines) at Patherkheira Area. In July 1976 he found that more loaders were to be employed in the mines. He therefore requested the General Manager to increase the number of the loaders. Thereupon the General Manager asked him to find the loaders from among the mine workers. He therefore inspected the record of the Colliery and found that about 50 or 60 persons were employed as loaders in the mines but were working against the time rated jobs. He therefore got a list prepared of all those persons who were working in the time rated jobs but were actually employed as loaders in the record of the Colliery. Thereafter he got the list pasted on the Notice Board and by that notice all the persons in the list were asked to work as loaders. He also states that all the ten persons about whom the reference has been made were employed as loaders at that time and also admits that prior to the preparation of the list of the concerned workmen they were working on the time rated jobs. He also admits that no notice under Sec. 9A of the I.D. Act was given to the workmen because the workmen were initially appointed as loaders.

9. The Union has examined some of the concerned workmen in support of its case. It appears from the statement of the witnesses that workman Shri Narsingh was working as Line Mistry, Shri Bharat was working as Line Mistry, Sitaram was working as Explosive Carrier and Basnoo was working as Tub-Repairer. These workmen have also filed their Identity Cards issued by the management showing the designation of their work. The Identity Cards support the statements of these workmen. These Identity Cards were issued by Shri Bhattacharya, the then Colliery Manager. Shri Ravindra Singh has stated that all the workmen about whom a reference has been made were working on time rated jobs when they were transferred to work as loaders. In support of his statement he has filed Ex. W/3 a list of the workmen who were asked to work as loaders by the management. He further submits that the name of the workmen is included in the list Ex. W/3 which shows that at the time of change in their service conditions they were working on time rated jobs. According to Shri Ravindra Singh this list was issued to them by the management when the Union asked the management to give them a list of the persons who were working as loaders. A perusal of the list shows that the persons in the list were asked to work as loaders from July, 1976. It further says that the persons whose name is included in the list were working against time rated jobs when they were asked to work as loaders in July 1976. The names of the concerned nine workmen are in the list Ex. W/3.

The management has not disowned the list and no witness has been examined in rebuttal to show that the list is prepared by the Union or that it was not given to the Union by the management. On the contrary, the witness of the management Shri Gupta who was the Mines Manager at the relevant time admits that about 50 to 60 persons working against the time rated jobs were asked to work as loaders. As such he supports the case of the Union on this point. Therefore from the evidence of witnesses of the Union and of the management I hold that all the concerned workmen referred to in the Schedule to reference except Shri Anandrao s/o Shri Asaram were working against the time rated jobs when they were asked to work as loaders in July.

10. Now it has to be decided whether the management was justified in asking these workmen to work as loaders and shift them from time rated jobs to piece rated jobs i.e. of loader.

It has been stated by Shri Gupta that a notice under Sec. 9A of the Industrial Disputes Act was not given to the workmen. According to the Union also such a notice was not given. So it is uncontroverted that a notice proposing the change in the service conditions was not given to the concerned workmen before asking them to work as loaders in July 1976. This naturally leads to a question whether such a notice was necessary and for answering this question first of all it has to be decided whether by working against a time rated job the workmen acquired the status of a time rated workmen.

and whether it became a condition of the service of the concerned workmen

11. From the perusal of the personal files of all the workmen which have been filed by the management I find that initially all the concerned workmen were appointed as Badli loaders. However, the witnesses of the Union state that from the first day of their service they were working in the time rated jobs. The list Ex. W/3 also says that when in July 1976 the workmen were asked to work as Badli loaders they were working against the time rated jobs. However, it is not clear from the record as to since when the concerned workmen were working on the time rated jobs. According to Clause 3 of the Certified Standing Orders any workman who completes one year's continuous service by putting 190 days attendance while working underground and 240 days attendance by working on surface in the same post or the post of same category shall become a permanent workman. As such, any of the concerned workman who has worked on a time rated job for one year continuously and has put in 190 days attendance underground or 240 days attendance on surface on a time rated job shall acquire the status of a permanent workman on that post and that will become a condition of his service to work on the post on which he has become permanent.

12. As stated above, the record does not reveal clearly as to for how many days each of the concerned workmen has worked continuously on a time rated job. Therefore it will be proper to hold that those workmen who have become permanent on the time rated jobs by virtue of Clause 3 of the Standing Orders could not be transferred to work as Badli loaders without a notice as required by Sec. 9A of the Industrial Disputes Act 1947. However, those workmen who had not put in attendance as required by Clause 3 of the Certified Standing Orders in the time rated jobs cannot claim to be permanently employed on a time rated job and in their cases a notice under Sec. 9A of the Industrial Disputes Act would not be necessary. The management is therefore directed to verify the record of the Colliery and after ascertaining the length and nature of the work of the concerned workmen shall repost all those concerned workmen who have acquired the status of the permanent workmen in the time rated jobs to those jobs which they were performing before asking them to work as loaders in July 1976. Those workers who had not completed the statutory period of work till July 1976 in the time rated jobs shall, however, not be entitled to be reposted on the time rated jobs because they had not acquired the status of permanent workmen on the time rated jobs. It is expected that the record of the Colliery shall be examined objectively by the management and the orders shall be passed by the management in strict conformity of this award.

13. In view of the aforesaid circumstances an award is given in the following terms:—

The management of the Patheikkhera Area of the Western Coalfields Limited was not justified in changing those workmen from time rated jobs to piece rated jobs who had become permanent on the time rated jobs. Shri Anandrao s/o Shri Asaram is not entitled to any relief because no such person is working with the management. Shri Kishan s/o Shri Jagnoo has already been reposted on time rated job and there is no dispute in existence in respect of the said workman. The management is directed to repost all of those workmen who are found to have acquired the status of a permanent workman on time rated jobs in July 1976 and pay them difference of wages, if any, between the time rated jobs which they were doing and that of the jobs of loaders from the date of their transfer from time rated jobs to the jobs of loaders till their posting on the time rated jobs. The management shall pay a costs of Rs. 100 to the Union.

27-11-1980

A. G. QURESHI, Presiding Officer

[No L-22012/18/78-D.IV(A)]

New Delhi, the 17th December, 1980

S.O. 3657.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Madras, in the industrial dispute between the employers in relation to the management of

Cochin Port Trust, Cochin-682003 and their workmen, which was received by the Central Government on the 6th December, 1980.

BEFORE THIRU T. SUDARSANAM DANIEL, B.A., B.L.,
PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
MADRAS

(Constituted by the Government of India)

Thursday, the 20th day of November, 1980

Industrial Dispute No. 34 of 1980

(In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Cochin Port Trust, Cochin.)

BETWEEN

A workman represented by
The General Secretary,
Cochin Port & Dock Employees Union,
Mattancherry Wharf Gate,
Willingdon Island, Cochin-682003.

AND

The Chairman,
Cochin Port Trust, Cochin-682003.

REFERENCE

Order No. L-35012/1/80-D. IV(A), dated 9th June, 1980 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Friday, the 14th day of November, 1980 upon perusing the reference, claim and counter statement and all other material papers on record and upon hearing the arguments of Thiru K. A. Abdul Gafoor, Secretary of the Union for the workman and of Thiru K. V. R. Shenoi for Menon and Pai, Advocates for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following

AWARD

This is an industrial dispute between the workmen and the Management of Cochin Port Trust, Cochin-3 referred to this Tribunal for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in Order No. L-35012/1/80-D. IV(A), dated 8-1-1980 of the Ministry of Labour, in respect of the following issue:

Whether the management of Cochin Port Trust are justified in imposing the punishment of Stoppage of one increment without cumulative effect on Shri E. K. Raghavan Nair, Mobile Crane Driver? If not, to what relief is the concerned workman entitled?

(2) Facts leading upto this dispute are as follows: Respondent-Management is the Chairman, Cochin Port Trust, Cochin-682003, Kerala State. The claim statement has been filed by the General Secretary Cochin Port and Dock Employees Union, Willingdon Island, Cochin-682003. Thiru E. K. Raghavan Nair is a Mobile Crane Driver in the Cochin Port Trust. He was booked for duty between 6.00 P.M. and 3.00 A.M. on the night of 19-6-1978. Ex. M-1 is the charge sheet issued to the workman on 22-7-1978. Ex. M-2 dated 31-7-1978 is the explanation offered by the workman. Apparently, the Management was not satisfied with the explanation and therefore ordered an enquiry to be held vide Ex. M-3 series. Thiru M. Velu, Deputy Chief Mechanical Engineer, Cochin Port Trust was appointed as the Enquiry Officer on 22-8-1978. Ex. M-3 series also contain the letter of the workman dated 1-9-1978, wherein he has called for as many as 8 documents from the Management to be produced at the time of enquiry. Furthermore, he had also sought for the permission to have the assistance of Thiru A. K. Gopalan, Shed Foreman, M. Wharf at the enquiry. Besides, he had submitted as many as 15 witnesses to be present at the time of the enquiry. The enquiry was scheduled to commence on 7-9-1978. Due to unavoidable reason for the Enquiry Officer the enquiry could not be held on that day and hence it was adjourned to 18-9-1978. Ex. M-4 is the Enquiry Proceedings in Malayalam. The English translation of Ex. M-4 is Ex. M-4(a). Before the commencement

of the enquiry, the workman Thiru E. K. Raghavan Nair wanted to know whether the charge levelled against him had been cancelled in the light of an earlier proceedings of the Management and the Enquiry Officer clarified that the charge has not been dropped against him and therefore asked the workman if he pleads guilty to the charge or not. The workman pleaded not guilty. Thereafter, the first witness for the Management Thiru Kuruvilla Memman was examined. He was cross-examined by Thiru A. K. Gopalan, Assistant to the charge-sheeted workman Thiru Raghavan Nair. The next witness examined on behalf of the Management was Thiru P. V. Sathisbaboo. He was also cross-examined by Thiru F. K. Raghavan Nair. Thereafter the enquiry was adjourned to 27-9-1978. On which day also Thiru Kuruvilla Mamman was further cross-examined by Thiru A. K. Gopalan on behalf of the charge-sheeted workman and the other witness Thiru Albert Androse was also examined and he was also cross-examined by the workman's representative. From 27-9-1978, the enquiry was adjourned to 9-10-1978 when the workman was asked to produce his witnesses. On 9-10-1978 also Thiru Albert Androse was further cross-examined by the workman. Thereafter Sri Madhava Menon was examined on behalf of the workman. The enquiry was adjourned to 20-10-1978 when Thiru P. P. Rajendran, Assistant Engineer was examined on behalf of Thiru E. K. Raghavan Nair. The Deputy Warf Superintendent Thiru T. Raghava Menon on behalf of Thiru E. K. Raghavan Nair was examined. Later Thiru K. G. Verghese, Tally Supervisor and also Thiru Jacob Verghese, Greaser Mobile Crane Section was examined. On 20-11-1978, the Enquiry Officer had examined the charge-sheeted workman on the strength of the materials appearing before him. Eventually, the enquiry proceedings came to a close on 15-12-1978. Ex. M-6 is the finding given by the Enquiry Officer on 27-1-1979. The findings of the Enquiry Officer was that Thiru E. K. Raghavan Nair caused undue delay in hooking the containers for moving them to the loading point and thus committed offences under sub-rule ii and xxi(a) and (b) of Rule 17 of the Rules for the Regulation of conditions of employment of the Industrial Staff of the Cochin Port Trust. The said Rules is marked as Ex. M-13. On 15-2-1979 the disciplinary authority, viz., Chief Mechanical Engineer, Port Trust informed the workman that he has accepted the findings of the Enquiry Officer in holding the workman guilty of the charges under sub-rule (ii) and (xxi)(a) and (xxi)(b) of Rule 17 of the Rules for the Regulations of the conditions of employment of the Industrial Staff of Cochin Port and therefore proposed to stop his next increment for a period of one year without cumulative effect under Rule 18(ii) of the Rules for the Regulations of the conditions of employment of the Industrial Staff of Cochin Port. The workman was granted 10 days time to offer his explanation and representation. On 1-3-1979 the workman under Ex. M-8 prayed for five more days to submit his representation. Eventually on 5-3-1979 the workman submitted his written representation Ex. M-9. Finally on 25-4-1979, the disciplinary authority held that the workman has caused undue delay in the movement of containers and so decided to stop his next increment for a period of one year without cumulative effect—vide Ex. M-10. Under Rule 21 of Ex. M-13, the aggrieved employee has got a right of appeal to appropriate appellate authority exercising his right. The workman Thiru E. K. Raghavan Nair did in fact prefer such an appeal to the Chairman, Port Trust on 7-6-1979 under Ex. M-11. The Chairman has passed the final orders on 16-9-1979—vide Ex. M-12. The Chairman has dismissed the appeal filed by the workman. Subsequently, the aggrieved workman has raised an industrial dispute with regard to the action of the Respondent Management and this has resulted in the present reference being made by the Government of India.

(3) The claim statement on behalf of the aggrieved workman Thiru F. K. Raghavan Nair has been filed by the Secretary Thiru K. A. Abdul Gafoor, Cochin Port and Dock Employees' Union. From the detailed claim statement filed by the Union it can be gathered that the Union on behalf of the aggrieved workman makes no challenge that the enquiry held was unfair or improper or opposed to the principles of natural justice. That apart even from the narration of the facts in paragraph supra it can easily be seen that in any event the enquiry held was proper and fair, in that workman was afforded all reasonable opportunities to defend himself against the charge and had the assistance of a co-worker

in the enquiry and all the witnesses examined by the Management were cross-examined on behalf of the workman and the workman himself had made his own statement and had also examined five witnesses on his side. The enquiry was not hustled through. The enquiry started on 7-9-1978 and lasted upto 15-12-1978. On 16-12-1978, the workman applied for certified copy of enquiry statements relating to the enquiry and the same was furnished to him on 16-12-1978 itself. The Enquiry Officer gave his findings on 27-1-1979—vide Ex. M-6. On 15-2-1979, the disciplinary authority, namely Chief Mechanical Engineer of Cochin Port Trust accepted the findings of the Enquiry Officer and issued a notice to Thiru E. K. Raghavan Nair to submit his representation with regard to the proposed punishment—vide Ex. M-7. The workman wanted more time as seen from Ex. M-3 and the same was granted the eventually he has filed the lengthy representations also on 5-3-1979 Ex. M-9. Taking into consideration his written representation also, the disciplinary authority under Ex. M-10 had passed an order on 25-4-1979 directing the stoppage of only one increment without cumulative effect. Aggrieved by this order of the disciplinary authority, the workman had also appealed to the Chairman as provided under the rules contained in Ex. M-13. Eventually, the Chairman passed the order under Ex. M-12 on 16-9-1979 rejecting the appeal. At page (9) paragraph P. of the claim statement it is stated that "the workman was not given sufficient opportunity to inspect the documents, prepare the statement of defence and effectively cross-examine the witnesses and to produce other evidence." As I had already pointed out even in his statement dated 1-9-1978 which forms part of Ex. M-3 series the workman had called for documents, required by him from the Management and during the long duration of the enquiry there was no whisper that any of these documents called for by the workman were not made available for inspection or perusal. Furthermore, at no stage has the workman or his Assistant pointed out that for want of any document called by him the workman could not proceed with the enquiry or the conduct of the defence or cross-examination of the witnesses. Ex. M-9 is the written explanation submitted by the workman on 5-3-1979. In this explanation, there is no whisper that he was not given sufficient opportunity to inspect the documents, prepare the statement of defence and effectively cross-examine the witnesses and to produce other witnesses. Even in the grounds of appeal Ex. M-11 is there any whisper that the workman was not afforded reasonable opportunity to inspect the documents, prepare the statement of defence and effectively cross-examine witnesses and to produce other witnesses. In the face of these materials, it is abundantly clear that this part of allegation is totally baseless. On an anxious and careful consideration of the entire materials, it is perfectly clear that the enquiry held was fair and proper and was not opposed to any principles of natural justice and does not suffer from any infirmities as such.

(4) As I had already pointed out the only objection of the workman is that the findings of the Enquiry Officer are perverse and consequently, the order of the Enquiry Officer as confirmed by the appellate authority cannot be sustained. Therefore it is incumbent on me to find out if the findings rendered by the Enquiry Officer are perverse for all or any other reason urged by the workman. The findings had been marked as Ex. M-6. The enquiry was instituted not only against Thiru E. K. Raghavan Nair, Driver, Mobile Crane but also against one Thiru Basil Gabral, Acting Chargeman, Mobile Crane also. The finding of the Enquiry Officer was that the charges levelled against the Acting Chargeman, Mobile Crane Thiru Basil Gabral had not been proved. At this juncture, I may advert to a point urged by Thiru K. A. Abdul Gafoor, Secretary, Cochin Port and Dock Employees' Union to the effect that in any event the action of the Management in initiating disciplinary proceedings against Thiru E. K. Raghavan Nair was to victimise him for his trade union activities. Straight away I may point out that even in the lengthy claim statement filed before this Tribunal there is no whisper that the action of the Management was to victimise the workman for his trade union activities. Ex. M-2 is the explanation offered by the workman on 31-7-1978. In the second paragraph of Ex. M-2 this is what we find: "The proceedings initiated against me is abinitio improper, ill motivated, hasty and opposed to the principles of natural justice." From this allegation of the workman it is sought to be contended that the workman has been victimised for his trade union activities. The alleged incident had taken place on the night of 19-6-1978. But the charge sheet had been issued to the workman under

Ex. M-1 only on 22-7-1978. If in fact the Management or anybody else was interested in persecuting or harassing the charge-sheeted workman, certainly they would not have waited for one month to issue a charge sheet. Moreover, from the charge sheet Ex. M-1 issued to the workman it is submitted that even before receiving the explanation from the charge-sheeted workman, the Management has pre-determined to hold an enquiry. Just because the memorandum Ex. M-1 states that the undersigned (viz., Chief Mechanical Engineer) proposes to hold an enquiry against Thiru E. K. Raghavan Nair, Driver, Mobile Crane under Rule 17 of the Rules for the Regulation of the conditions of employment of the Industrial Staff of Cochin Port Trust it does not necessarily follow that the Chief Mechanical Engineer, viz. disciplinary authority had already decided to hold an enquiry even before hearing the explanation offered by the workman. Ex. M-1 itself gives three days time from the date of receipt of that memo for the workman to submit his explanation in writing. Therefore it is reading too much into Ex. M-1 to hold that the Management were determined to hold the enquiry even before the explanation was received from the workman. However, the workman himself has properly understood the gist of the charge-memo Ex. M-1 as will be evident from the explanation offered by him under Ex. M-2. A perusal of Ex. M-2 would easily dispel the theory now put forward at the bar that the Management was pre-determined to have an enquiry against the workman. Ex. M-3 series also contain a communication of the disciplinary authority, viz., Chief Mechanical Engineer, Cochin Port Trust dated 22-8-1978 that the explanation offered by the workman under Ex. M-2 is not satisfactory and cannot be accepted and therefore it was proposed to hold an enquiry. Furthermore, the order appointing Thiru M. Velu, Deputy Chief Mechanical Engineer, Cochin Port Trust to enquire into the charges had been passed on the same day, namely 22-8-1978 as will be seen from Ex. M-3 series. Moreover, it should be remembered that the enquiry had been initiated not only against Thiru E. K. Raghavan Nair but also Thiru Basil Gabral, Acting Chargeman, Mobile Crane and so it is pretty clear that the charge-sheeted workman Thiru B. K. Raghavan Nair alone has not been singled out. As I had already referred to, the enquiry was not hustled through by the Management. It took a long time for the enquiry to be over. Although the actual recording of the enquiry was ended by 15-12-1978, the finding has been rendered by the Enquiry Officer only on 27-1-1979. Likewise, the disciplinary authority had accepted the findings of the Enquiry Officer on 15-2-1979 and thereafter after hearing the submissions of the workman, the disciplinary authority has passed the order. Moreover, although the workman was charged with committing offence under several heads, the Enquiry Officer had held that the charges under other heads had not been established against the workman. It also transpires in evidence that there is no enmity between the Management and the charge-sheeted workman or between the Shipping Company Agency and the charge-sheeted workman. Under these circumstances, there is no merit in the contention that the disciplinary proceedings against the workman was for ulterior consideration or to victimise the workman for his trade union activities. Against it must be pointed out that the action has been initiated not by the Management of its own accord only but on oral complaint given by the Shipping Agencies. Therefore the action of the Management in having initiated disciplinary proceedings against the workman cannot be considered to be mala fide or motivated by any other extraneous consideration. It is also well settled that when once a charge is established the plea of victimisation or due to any other cause fades into insignificance. The action of the Management is only bona fide.

(5) In order to appreciate the findings of the Enquiry Officer, it will be pertinent for me to set out more undisputed facts as can be gleaned from the materials placed before the Enquiry Officer. The charge-sheeted workman, viz., Thiru E. K. Raghavan Nair, Driver, Mobile Crane was booked for duty between 6.00 P.M. to 3.00 A.M. on the night of 19-6-1978. The crane was originally hired from 7.00 P.M. to 9.00 P.M. by compagnie General Maritime for shifting 5 loaded containers from O.5 frontage to the loading point of m.v. Gruguin. After shifting one container at about 8 O'Clock the workman reported that the air pressure was low and that it was not possible to work in that condition and took back the crane to the shed. However after a short while the workman stated that the crane is working satisfactorily. Therefore as the shifting of remaining four containers was not finished

the party was constrained to hire the crane upto 10.00 P.M. and then from 11.00 to 12.00 P.M. Therefore it is clear from that from 7.00 P.M. to 10.00 P.M. the workman had shifted only three loaded containers and from 11.00 P.M. to 12.00 P.M. the remaining two. It appears in evidence that normally it takes for a Crane Driver to shift a loaded container from frontage to the loading point within 20 to 23 minutes. Therefore if the crane had been worked in the normal way the work of shifting five loaded containers would have been over within two hours or so. Granting a margin for the traffic at a time the entire shifting could have easily finished within three hours at the most. Incidentally, it may also be remembered that it cost the party hiring the mobile crane Rs. 550 per hour. In the present case the shifting had taken place from 7.00 P.M. to 10.00 P.M. and 11.00 P.M. to 12 midnight, 10.00 P.M. to 11.00 P.M. is said to be interval time. Therefore the party concerned is obliged to engage the mobile crane for four hours instead of two or three hours at the most. Therefore it is that the charge was levelled against the Mobile Crane Driver Thiru E. K. Raghavan Nair that "his negative attitude created much difficulties, loss of time and money to the ship lines." Even at this stage it may be remembered that the charge levelled against the workman was only the difficulties created by the attitude of the workman in the matter of loss of time and money to the concerned ship lines and not against the Respondent-Management as such. Therefore under Ex. M-1 the workman was charged under sub-rule ii, vii, ix of Rule 17 of the Rules for the Regulation of conditions of employment of the Industrial Staff of Cochin Port Trust Ex. M-13. For the convenience sake I am extracting the various sub-rules from Ex. M-13 under which the workman stood charged :

"Rule 17 : The following acts or omissions shall be treated as misconduct and the punishment imposed for such misconduct will vary according to the gravity of the offence as decided by the officer imposing the punishment.

Rule 17(ii) : Incivility or causing inconvenience, to the public or Port officials.

Rule 17(vii) : Inefficient, dilatory, careless, wasteful, dangerous or obstructive working.

Rule 17(ix) : Idling in work or negligence or neglect of work.

Rule 17(xi) : Slowing down in performance of work or abetment or instigation thereof.

Rule 17 (xxi) : Commission of any act subversive of discipline or good behaviour :—

(a) Within the Port premises or,

(b) In the course of duty or,

(c) Outside the Port premises if it is likely to affect the discipline or the administration of the Port.

At page 3 of the findings Ex. M-6, the Enquiry Officer holds from the evidence on record that "the driver deliberately caused avoidable delay at this point by moving the crane too many times forward and backward than would have actually been necessary." At the end of page 3, the Enquiry Officer finds that "it has not been proved beyond reasonable doubt that the driver caused undue delay in moving the containers after hooking, to the loading point." Therefore the Enquiry Officer held that on the materials placed, it has been proved beyond reasonable doubt that Thiru E. K. Raghavan Nair only caused undue delay in hooking the containers for moving them to the loading point and thus he was found guilty by the Enquiry Officer under sub-rule (ii) of Rule 17 and also under sub-rule (xxi) of Rule 17. By necessary implication, it can be inferred that the Enquiry Officer did not find the workman guilty under sub-rule (vii) or (ix) or (xi) of Rule 17. The disciplinary authority accepting the findings of the Enquiry Officer has held that Thiru E. K. Raghavan Nair had caused undue delay in the movement of containers vide Ex. M-10. This finding has been affirmed in appeal under Ex. M-12. The Enquiry Officer in his finding under Ex. M-6 has clearly held that Thiru E. K. Raghavan Nair was guilty of misconduct under sub-rule (ii) of Rule 17 and also under sub-rule (xxi) of Rule 17. The contention of the Union is that even on the facts proved before the Enquiry Officer it cannot be held that an offence has been made out under Rule 17(ii) of Ex. M-13. It is contended that in

the charge-sheet Ex. M-1 wherein it is not specifically stated that the workman was un-civil to the public or port officials and caused inconvenience to them. Suffice for me to refer to the charge-sheet Ex. M-1, wherein it is specifically mentioned that his negative attitude created much difficulty, loss of time, money, etc., to the ship lines." Ship lines is certainly a public body and therefore any inconvenience caused to the ship lines would surely come within the ambit of sub-rule (ii) of Rule 17 of Ex. M-13. Again it is stated by the Union that the workman was not charged with misconduct under sub-rule (xxi) of Rule 17. It is true that in the charge-sheet Ex. M-1, sub-rule (xxi) of Rule 17 has not been specifically mentioned. But certain acts contemplated under sub-rule (ii) of Rule 17 can in suitable cases as in the present case be brought within the scope of sub-rule (xxi) (b) of Rule 17 also. Just because sub-rule (xxi) of Rule 17 has not been mentioned in Ex. M-1 it does not necessarily follow that the charge-sheeted workman was surprised by the finding given by the Enquiry Officer. As a matter of fact, the disciplinary authority under Ex. M-10 does not refer either to sub-rule (ii) or sub-rule (xxi) of Rule 17. The disciplinary authority has found that the Mobile Crane Driver has caused undue delay in the movement of containers and therefore as a result of the negative attitude of the workman certainly the shipping company has been inconvenienced and hence the finding of the disciplinary authority is in accordance with the Rules for the regulation of the conditions of employment of the Industrial Staff of Cochin Port Ex. M-13. Therefore the finding of the disciplinary authority cannot be held to be vitiated under any count. In any view, no prejudice whatsoever has been caused to the charge-sheeted workman. The duty of Mobile Crane Driver comprises of two parts. In the first place, he has to work the crane in order to hook the container from the Q.5 frontage yard and the 2nd part consists of moving the hooked loaded container to the loading point near the vessel. What the Enquiry Officer has found is that there is undue delay on the part of the charge-sheeted workman in hooking the Mobile Crane to the loaded containers, but he gave the benefit of doubt that there was no undue delay from the part of the hooking containers to unloading them at the loading point near the vessel. Therefore merely because the Enquiry Officer gave the benefit of doubt to the charge-sheeted workman with regard to 2nd part of his duty, it does not necessarily follow that finding of the Enquiry Officer with regard to the 1st part is either perverse or opposed to the latter finding or based on no evidence. Therefore, I am unable to accept the submission of the Union that even as per the materials placed before the Enquiry Officer, the charges under sub-rule (ii) and (xxi) of Rule 17 had not been established. Hence I cannot hold that the findings of the disciplinary authority as confirmed by the appellate authority are perverse or based on no evidence whatsoever.

(6) It is finally submitted that in any event, the punishment imposed is unduly excessive and not in proportion to the misconduct stated to have been proved. The punishment imposed on the workman is stoppage of one increment with effect from 8-1-1980 for a period of one year without cumulative effect, which means that the increment due was only stopped but the same increment will be given when the next increment falls due. In the process, the workman would stand to lose about a sum of Rs. 150 only. I have already referred to the fact that it cost the shipping company a sum of Rs. 550 per hour to hire a mobile crane. Therefore, taking into consideration the unhelpful attitude of the workman in working the crane, the stoppage of increment without cumulative effect which will only cost a sum of Rs. 150 cannot by any stretch of imagination be said to be highly disproportionate to the act proved against the workman considering the loss caused to the ship lines. In the circumstances, the Management was justified in imposing the punishment of stoppage of one increment without cumulative effect on Thiru E. K. Raghavan Nair.

(7) In the result, an Award is passed dismissing the claim but in the circumstances without costs.

Dated, this 20th day of November, 1980.

T. SUDARSANAM DANIEL, Presiding Officer

WITNESSES EXAMINED

For both sides : Nil.

DOCUMENTS MARKED

For workman : Nil.

For Management :

- Ex. M-1/22-7-78—Charge sheet issued to the workman.
- Ex. M-2/31-7-78—Explanation of the workman to Ex. M-1.
- Ex. M-3 series—Notice of enquiry and notices postponing then enquiry (16 Nos).
- Ex. M-4—Proceedings of the enquiry conducted on 18-9-78, 27-9-78, 9-10-78, 20-10-78, 20-11-78 and 15-12-78.
- Ex. M-4(a)—English translation of Ex. M-4.
- Ex. M-5/16-12-78—Letter from the workman to the Management for furnishing copy of enquiry proceedings.
- Ex. M-6/27-1-79—Findings of the Enquiry Officer.
- Ex. M-7/15-2-79—Memo issued to the workman proposing the punishment.
- Ex. M-8/1-3-79—Letter from the workman to the Management requesting 5 more days to submit his representation to Ex. M-7.
- Ex. M-9/5-3-79—Written representation of the workman to Ex. M-7.
- Ex. M-10/25-4-79—Order of the Management stopping next increment of the workman.
- Ex. M-11/7-6-79—Appeal of the workman against the punishment submitted to the Chairman.
- Ex. M-12/16-9-79—Order of the Chairman dismissing the appeal.
- Ex. M-13—Rules for the regulation of the conditions of employment of the Industrial Staff of Cochin Port.

T. SUDARSANAM DANIEL, Presiding Officer

Note : Parties are directed to take return of their document(s) within six months from the date of publication of the Award.

[No. L-35012/1/80-D(IV)A]

NAND LAL, Desk Officer

New Delhi, the 17th December, 1980

S.O. 3658.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi, in the industrial dispute between the employers in relation to the management of Central Bank of India, New Delhi and their workman Shri Ram Dulare Upadhyay, Daftry, which was received by the Central Government on the 26th November, 1980.

BEFORE SHRI MAHESH CHANDRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

I.D. No. 85 of 1977

IN RE :

The General Secretary,
Central Bank Employees' Union,
Central Bank Building,
Chandni Chowk, Delhi.

... Petitioner

Versus

The Zonal Manager,
Central Bank of India,
Parliament Street,
New Delhi.

... Respondent.

PRESENT :

Shri T. C. Gupta—for the workman.
Shri S. S. Sethi—for the Management.

AWARD

The Central Government as appropriate Government vide its order No. L-12012/54/75-D.II/A dated the 5th July, 1975 referred an Industrial Dispute to Industrial Tribunal, Delhi u/s 10 of the I.D. Act, 1947 in the following terms :

Whether the management of the Central Bank of India, New Delhi, is justified in forcing Shri Ram Dulare Upadhyay, Daftry, to retire from service with effect from the 4th November, 1975 by not altering his date of birth, on the basis of the proof produced by him ? If not, to what relief is the said workman entitled ?

2. On receipt of the reference it was ordered to be registered and usual notices were sent to the parties, whereupon the workman side filed a statement of claim to which a written statement was filed on behalf of the Bank and finally a replication was filed. On the pleadings of the parties only issue in the following terms was framed :

1. As in the order of reference ?

3. The case was then adjourned for evidence, but before any evidence could be recorded this case was transferred by the appropriate Govt. to this Tribunal vide order dated the 13th May, 1977 and after the parties appeared before this Tribunal talks for compromise started between the parties but as no compromise was arrived at, evidence of the parties was recorded. I have gone through the evidence produced by the parties and have heard their representatives at length and after giving my considered thought to the matter before me I have come to the following findings :

4. The contention of the workman as disclosed from his statement of claim is that he had joined the service of the bank as a subordinate staff, latter redesignated as a Daftry in 1946 and he was retired from service of the Bank w.e.f. 4-11-1973 on the basis of wrong date of birth as entered in the records of the Bank which was wrong and illegal and hence this reference.

5. The contention of the Bank is that the workman was retired from the service on completion of 60 years of age as his date of birth as recorded in the service record of the workman was 5-11-1913 and that he was retired correctly.

6. In order to establish his contention the workman has come forward as a witness as W.W.1 and has stated that he had joined the service of the Bank in 1946 and that his date of birth according to the school leaving register/certificate Ex. W.W.1/2 is 1-4-1917 and he was wrongly retired on 4-11-1973. During cross examination it is admitted by him that Sukhdev Prashad was the Jamadar when he got into the service he knew him but it was not he who got him into the service. He has admitted the original of Ex. M/1 was containing his signatures. It is further stated by him that he had studied in school but he has not been able to give the name of the school. He has denied that the certificate submitted by him was false.

7. As against this evidence of the workman, the Management has examined two witness M.W.1 is Shri P. P. Gupta, the Branch Manager, Shahdara who has tendered into evidence his affidavit Ex. M.W. 1/a as also the photostat copy of the service and leave record of the workman which are Ex. M/2 and Ex. M/3. He had brought the originals. The other witness is M.W.2. Shri Jinendra Kumar Jain, Accountant of Chandni Chowk Branch who has tendered into evidence his affidavit Ex. M/4 and copy of the service record has been approved by him to Ex. M/2. During cross examination nothing material has been brought out by the workman except that both these witnesses had joined the service of the Bank after the workman had already been appointed but this fact does not make any difference whatsoever since their statements are based upon the bank's record and they have not said anything on the basis of their personal knowledge not drawn from the bank record. From the perusal of Ex. M/2 I find that this is the photostat copy of the service record of the workman and it shows that the date of birth recorded in the service record in 1946 at the time of his entry in the service of the bank is 5-11-1913. Likewise Ex. M/3 which is the staff record register extract gives his date of birth as 5-11-1913. On the basis of evidence

produced by the parties it cannot be said that the date of birth recorded by the Bank was not correct date of birth. The burden of proving the correct date of birth was upon the workman. Apart from producing the school leaving certificate Ex. W.W.1/2 he has not produced any other evidence to establish his date of birth. From the perusal of this certificate I do not find that much reliance can be placed upon this certificate since neither the Principal nor the Head Master of the school has been produced nor the person who has issued the certificate been examined as a witness. The original record which is the basis of this certificate has also not been got produced. It has not been shown that this certificate relate in fact to this workman. The workman has not cared to examine his father or his mother and there is no evidence on the record to suggest that none of them is alive. It is admitted by the workman that it was his father who had procured this certificate but his father has not been examined. The only school where this workman has alleged himself to have studied is the one from which certificate Ex. W.W. 1/2 has been produced but from the perusal of the certificate I find that there is a difference of only four months in the date of first admission of the workman to this school and the date of leaving the school. The certificate evidences that the workman was studying in Vth standard when he left the school. Obviously he could not have reached Vth standard in four months during which he was studying in this school. He has not cared to produce the certificate from the school in which he has first entered. He has not produced any entry from the register of births. The burden of establishing the date of his birth other than the one which had been in the record of the Bank since 1946 was upon the workman but he has failed to discharge that burden. He has not cared to produce the best evidence which could have been the statement of his father or mother or other relation or the birth entry from the register of births. From the perusal of Ex. M/1 I find that this is copy of application submitted by the workman in 1965 to the Bank for employment of his son and in para 1 thereof it is stated by him that he was due to retire in four to five years time. This shows that as late as 1965 the workman knew the probable date of his retirement. It appears that the certificate Ex. W.W. 1/2 cannot be relied upon in the peculiar circumstances of this case. Incidentally it may be mentioned here that the workman has admitted the execution of Ex. M/1. Other documents produced on record in the instant case are not much relevant. In view of my discussions above, I hold that there is no reason to accept the contention of the workman that his date of birth was not correctly recorded in his service record and as such it follows that the Management of Central Bank of India, New Delhi was justified in retiring the workman from service w.e.f. 4-11-1973 and that the workman was not entitled to any relief whatsoever. Parties are however left to bear their own costs.

Further Ordered :

That requisite number of copies of this award may be sent to the appropriate Government for necessary action at their end.

4th November, 1980.

MAHESH CHANDRA, Presiding Officer

[No. L-12012/454/75-DV(A)]

S. K. BISWAS, Desk Officer

New Delhi, the 17th December, 1980

S.O. 3659.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad, in the industrial dispute between the employers in relation to the management of Kessurgarh Colliery of Messrs Bharat Coking Coal Limited, Post Office Nudkhankee, District Dhanbad and their workmen, which was received by the Central Government on the 2nd December, 1980.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Sec. 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 14 of 1978

(Ministry's Order No. L-20012/223/77-D. III(A)
Dt. 22-7-78)

PARTIALS

Employers in relation to the management of Kessurgarh Colliery of Messrs Bharat Coking Coal Limited, Post Office Nudkharkee, Dist Dhanbad

AND

Their Workmen

Reference No. 15 of 1978

(Ministry's Order No L-20012/225/77-D III(A) Dt 26-7-78)

PARTIES

Employers in relation to the management of Kessurgarh Colliery of Messrs Bharat Coking Coal Limited, Post Office Nudkharkee, District Dhanbad

AND

Their Workmen

PRESENT

Mr Justice B K Ray
Presiding Officer

APPEARANCES

For the Employers—Shri G Prasad Advocate

For the Workmen—Shri Lalit Burman, Authorised Representative

STATE Bihar INDUSTRY Coal
Dhanbad dated the 28th November, 1980

AWARD

Reference No 14 of 1978 relates to Shri R S Mukherjee Stone Dust Incharge/Senior Overman Reference No 15 of 1978 relates to Shri Bharat Bilaspuri, Mining Sirdar Both of them have been dismissed from service under M/s Bharat Coking Coal Limited with effect from 11-12 1975 for misconduct which has been proved against them in a common domestic enquiry. The chargesheets issued against them are identical. There was an accident in Kessurgarh Colliery (3/3A incline 9 Seam) on 8/9 8 1975 by fall of the roof in which 11 miners died. At the time of accident the two concerned workmen were on duty—one as overman and the other as mining sirdar. After the accident Government of India constituted a Court of Enquiry of which Sri R C Dutta was the Presiding Officer and four others were assessors to enquire into the causes and circumstances attending the accident. While the enquiry was pending the two workmen concerned were chargesheeted by the management in identical terms and they were asked to show cause. The allegation against them was that on account of their negligence in duty, the accident occurred in which 11 miners lost their lives. The chargesheet reads thus

"On 8-8 1975 in the 3rd shift while you were on duty at 3/3A incline, 9 seam, an unfortunate accident took place in which 11 persons lost their lives one was seriously injured and another one received minor injuries. You are hereby charged on the following counts—

- 1 You failed to erect the required number of cogs and props in the working place as per Systematic Timbering Rules applicable to the mine
- 2 You did not carry out the testing of roof at the beginning of the shift as required under Coal Mines Regulation, 1957
- 3 You employed loaders for loading coal from blasting which was not secured by erection of proper supports. If at all there was any delay in erection of supports you should have fenced the area and prevented the loaders entering therein—(Regulation)
- 4 You permitted progressive round of blasting without getting the roof checked and tested and erecting supports after every round of blasting. You left the place of duty before the end of your shift

The above amounts to serious misconduct on your part as per Clause 18(i)(g) of the Standing Orders applicable to

you that is breach of Coal Mines Regulation, 1957 and Coal Mines Act, 1952

You are required to explain within 48 hours of receipt of this as to why disciplinary action should not be taken against you"

The two workmen submitted their replies which were also similar. The replies having been found unsatisfactory there was a common domestic enquiry in which both of them were found guilty of the charges. On the recommendation of the Enquiry Officer the two workmen were dismissed from service with effect from 11-12 1975 by two impugned orders of dismissal which have given rise to the present two cases. After receipt of the references from the Central Government parties have been noticed and they have filed their respective written statements. Pleas taken by the two workmen are practically the same. So far as the management is concerned besides taking all the pleas taken by it in Reference No 15 of 1978, it has taken an additional plea in Reference No 14 of 1978 to the effect that Shri R S Mukherjee the concerned workman, being an overman drawing a salary of more than Rs 500 pm at the time of the accident, is not a workman as defined in ID Act and so the reference in his case is bad in law. It is on account of these common features the two cases have been heard together and parties have led a common set of evidence except in Reference No 14 of 1978 in which some additional evidence has been led by the management in support of its plea that Shri R S Mukherjee is not a workman. The points both of facts as well as of law that arise in both the cases being same except the additional point arising in Ref No 14 of 1978 the two cases are disposed of by this common award. The additional point raised by the management in Ref No 14 of 1978 will however be dealt with separately in a separate paragraph in this award.

2 The main charge against the two concerned workmen is that they failed to erect the required number of cogs and props at the working place as per Systematic Timbering Rules that they did not carry out the testing of roof as required under Coal Mines Regulation 1957 that they employed loaders for loading coal from blasting before the roof under which they were to work was secured by erection of proper supports and before testing that they permitted progressive rounds of blasting without getting the roof checked and tested and without erecting supports after every round of blasting and that they left the place of duty before the end of their shift. It is an admitted fact that both the workmen were on duty in the 3rd shift on 8/9 8 75 in the Colliery (3/3A Incline) and that they were working at two levels namely, level No VI and VIII. It is also an admitted fact that there were two rounds of blasting—the first one of 12 shots and the second one of 4 shots. The two rounds of blasting took place with an interval of about half-an-hour and within half-an-hour or one hour of the second blasting the lower level of the roof of the mine under which the loaders were working collapsed killing eleven miners.

3 The defence of the two workmen is that the immediate roof at the time of accident was separated from the main roof at the bedding place of the two layers. The cementing material between the two layers was muddy clay which was not of any assistance to keep the two layers solidly attached. The rock surfaces of the layers at the bedding place were well polished and lustrous in appearance which indicated that the upper layer was loosely formed over the lower layer at the time of formation. Due to these defects which could not have been detected by testing the roof at the place of accident the whole mass of the lower level of the roof collapsed without prior warning all of a sudden and burned the persons working under it. The roof at the place of accident did produce metallic sound when tested and therefore there was no occasion for the two concerned workmen to suspect any mishap before they permitted the loaders who died in the accident to work under the roof which collapsed. The accident was due to circumstances beyond human control and was only a "misadventure". There was also a hanging Goaf covering an area of approximately 50 000 sq ft near the roof which collapsed in the accident and this hanging Goaf also contributed to the cause of the accident. There were no sufficient number of timber ganes, of props and cogs at the place of accident. So the two concerned workmen could

not have erected sufficient number of props and cogs to prevent any collapse of the roof. The allegation in the chargesheet that the two workmen were not at the place of their duty at the time of accident is not true. In these circumstances they cannot be held responsible for the accident which caused the death of 11 loaders. In addition to the defence as indicated above the two workmen have pleaded that the domestic enquiry in which they have been found guilty having been held in a perfunctory manner without observing principles of natural justice, the finding arrived in such enquiry cannot be said to be a valid one.

4. The main case of the management as revealed from its pleadings and chargesheet is that the two workmen did not test the roof either before blasting or after blasting and allowed the loaders to go underneath the roof that collapsed without erecting sufficient number of props and cogs. According to the management if there was not enough time for erecting sufficient number of props and cogs between the two blastings which took place in the 3rd shift in the night of occurrence, it was the duty of the two concerned workmen to fence out the area and not to allow the loaders to go inside it. This the two workmen did not do and instead allowed the loaders to go under the roof which subsequently collapsed for non-erection of sufficient number of props and cogs. Hence they are guilty of misconduct and are responsible for the accident which caused death of 11 loaders. The further case of the management is that the two concerned workmen were not at their place of duty when the accident occurred.

Besides the case indicated above, the management has challenged the validity of reference in Ref. No. 14 of 1973 on the ground that Shri R. S. Mukherjee, the concerned workman, not being a workman as defined in I.D. Act the impugned order dismissing him from service cannot be the subject matter of a reference under the said Act.

The other points of law raised by the management in its written statements in the two cases such as there is no reference in the eye of law in as-much-as the reference has been signed by the Desk Officer who is not the proper authority to sign a reference have not been pressed before me at the time of hearing and so these points are taken to be not pressed.

5. Before hearing the cases on merit, the preliminary point raised by the two workman that the domestic enquiry has not been fair and proper, has been heard as a preliminary issue and by order dated 31-3-1980 the Tribunal has held on concession of parties that there has been no violation of principles of natural justice in the enquiry and hence the domestic enquiry is fair and proper in all respects.

6. It may be mentioned here at this stage that the Court of Enquiry which had been constituted to go into the cause of the accident that occurred on 8/9-8-75 in Kessurgarh Colliery resulting in the death of 11 miners has in the meanwhile returned its findings. A copy of the report of the court has been marked as Ext. M-10 on admission. Both parties rely on it in support of their respective cases.

7. While going into the merit of the two cases it is worthwhile to quote the schedules attached to the two orders of the Central Government, in order to know the scope of the references. The schedule read as follows :

Reference No. 14 of 1978

"Whether the action of the management of Kessurgarh Colliery of Messrs. Bharat Coking Coal Limited, Post Office Nudkharkee, District Dhanbad, in dismissing Shri R. S. Mukherjee, Stone Dust Incharge/Senior Overman with effect from the 11th December, 1975, is justified? If not, to what relief is the said workman entitled?"

Reference No. 15 of 1978

"Whether the action of the management of Kessurgarh Colliery of Messrs. Bharat Coking Coal Limited, Post Office Nudkharkee, District Dhanbad, in dismissing Shri Bharat Bilaspuri, Mining Sirdar, with effect from 11th December, 1975, is justified? If not to what relief is the said workman entitled?"

It is thus clear that the main question which falls for determination in these cases is as to whether the action of the management in dismissing the two workmen from service with effect from 11-12-1975 is justified. At the cost of repetition it may be stated here once again that Shri R. S. Mukherjee, Stone Dust Incharge/Senior Overman, and Shri Bharat Bilaspuri, Mining Sirdar, were on duty in the 3rd shift on 8/9-8-75 in 3/3A incline 9 Seam in Kessurgarh Colliery under M/s. Bharat Coking Coal Ltd. and that work was being done in 6th and 8th level. During this shift there were two rounds of blasting the 1st one consisting of 12 holes and the 2nd one consisting of 4 holes. The two blastings took place with an interval of about half-an-hour. After about half-an-hour to one hour of the 2nd blasting when miners were working inside the mine the lower level of the roof under which work was going on collapsed all of a sudden burying 11 miners.

About three months after the accident two chargesheets were issued against the two workmen as quoted above asking them to show cause as to why they should not be punished for misconduct as mentioned in the chargesheets. The replies submitted by the two concerned workmen in substance are to the effect that the accident was the result of a natural calamity which could not have been foreseen. Even if there were testing of the roof and even if sufficient number of cogs and props had been erected to support the roof the accident would have taken place. Therefore, according to the two workmen, the accident was a "misadventure". The further case in the replies is that as a matter of fact the two workmen performed their duties as required under the rules and regulations, by testing the roof at all relevant time and by erecting sufficient numbers of cogs and props. If the numbers of cogs and props erected by them are considered to be not sufficient then it was not their fault because sufficient Timber Gangs and sufficient number of cogs and props were not available at the site which was the responsibility of the management to provide. Regarding allegation that the two workmen left their duties their reply is that the same is false. The replies thus submitted by the workmen were not considered to be satisfactory whereupon the management initiated a domestic enquiry into the several charges in the chargesheets against the two concerned workmen. In the enquiry as many as eight witnesses were examined for the management and six for the defence. The two concerned workmen did not examine themselves in the enquiry by saying that they had nothing more to say beyond what they had already said in their respective replies.

Shri P. R. Bose, Manager (Planning), the first witness for the management stated in the enquiry that on 8-8-75 in the 3rd shift in 3/3A incline (9 Seam) of Kessurgarh Colliery there was an accident due to roof fall at No. 6 level in which 11 persons lost their lives, one was seriously injured and one sustained minor injury. According to the witness a report of the accident was sent by the manager to Department of Mines. A copy of the report was produced in the enquiry and was marked Ext. B(1). Sri Bose said that at about 3.30 A.M. in the 3rd shift the roof fall took place, that the timbering in the mine was not as per the Systematic Timbering Rules, that required number of props and cogs had not been put, that the working face was not checked before starting the work, that there was blasting of 12 holes followed by another blasting of 4 holes, that the roof should have been tested and proper amount of props and cogs should have been erected before commencement of work that without erecting sufficient number of props and cogs miners were allowed to work in unsafe condition, that there was one Overman, namely, Shri R. S. Mukherjee, one Mining Sirdar, namely, Bharat Bilaspuri, one Shortfirer and one Munshi belonging to the supervisory staff in the mine at the relevant time, that there was a Timber Gang consisting of 4 persons, that the number of timbers and sleepers available in the mine at the time of accident were more than the required quantity, and that in case there was any shortage in timber gang it was the duty of the Overman to engage loaders in timbering work. The witness also stated at the time of his deposition that an off-set plan of the place of accident which showed the position of props and cogs at the place of accident and availability of timbers had been prepared after the accident. This plan which contains the signature of two concerned workmen has been marked as exhibit B(2) in the enquiry. The witness further deposed in cross-examination that besides props and cogs that

were available at the site sufficient number sleepers were available in the mine at a distance of 50 ft. from one side end of 30 ft. from other side of the place of accident. According to the witness neither the overman nor the mining sirdar was present at the face when the accident took place. The witness clearly stated in cross-examination that the accident which occurred was not due to the existence of the hanging goaf as claimed by the workmen.

Witness No. 2 for the management Sri Srishidhar Mahato, is an attendance clerk. His evidence is only to the effect that the two concerned workmen had their duty in the 3rd shift on the date of occurrence.

Witness No. 3 for the management Sri Bhagwat Bilaspuri is a Driller of 3/3A Incline. He was on duty on 8-8-75 in the night shift. He deposes that he made 12 holes in 1st blasting as directed by the mining sirdar. According to the witness after the blasting he saw that there was hanging goaf in the roof. So the witness was asked by the mining sirdar to put 4 more holes which he did. Thereafter witness went to No. 8 level and while he was putting holes there he heard weeping sound and ran to the place of accident. At that time the witness did not see the overman who was on the surface. According to his evidence the working face was not tested before putting the holes. The witness, however, deposed that there was one prop in the working face and one had fallen down.

Witness No. 4 for the management is Sri B. Prahalad Bilaspuri, Dresser. He stated that he reached the working face at about 12-30 A.M. on the date of accident and saw that the 2nd shift loaders were working in that working face i.e. No. 6 level. According to him the mining sirdar told him that No. 6 and No. 8 levels will be worked. So under the instruction of the sirdar the witness put 12 holes and thereafter 4 more holes. After the blasting in No. 6 level the witness stated that the sirdar did not tell the Timber Mistry to put props nor the sirdar tested the roof by buntion.

Witness No. 5 Sri Brich Ram Bilaspuri for the management stated that when he went to the working face to load coal in the 3rd shift on the date of accident he did not find either the mining sirdar or the overman there. He also did not see any props and cogs in the working face.

Witness No. 6 Sri Hinalal Bilaspuri, loader, for the management stated that when he went to the working face to load coal there was no cogs and that blasting had been done. According to the witness there was one cog in the southern side of the goaf but not a single prop was there in the working face.

Witness No. 7 Sri Chhota Asai Bilaspuri, loader, for the management stated that he was in night shift on the date of accident and was working in No. 6 level. According to him when he was shoveling coal the roof came down. There was only one cog in the southern side of the fencing and one was on the western side. The witness further asserted that there was no props in the working face and that when he was loading coal neither the mining sirdar nor the overman was there. After the roof fell down and some loaders were buried under it the witness cried and ran away. In cross-examination the witness stated that the roof was not tested.

Witness No. 8, Sri Lakesh Ram Bilaspuri, loader, for the management stated that he was in night shift in the same working face where the accident took place. There was no props and cogs in the working face and he did not see the sirdar. He trembled when the roof fell down and he went away to the surface where he saw the overman.

Sri Mohit Bilaspuri, S/F Coolie, witness No. 1 for the defence stated that at No. 6 level in the night of occurrence there were 15 to 16 props and 4 cogs. When questioned the witness stated that after the blasting 7 to 8 props fell down.

Sri Bisheshwar Bilaspuri, S/F Mazdoor, witness No. 2 for the defence stated he was on duty in the 3rd shift at No. 6 level. He found 12 to 14 props and 4 cogs in the corner. He also stated that the Sirdar had tested the roof by Buntion. According to him only 1 or 2 props fell down after the blasting.

Sri Bhukhal Mahato, Timber Mistry, witness No. 3 for the defence stated that he was on duty in the 3rd shift in the fateful night when the accident took place and went down the mine alongwith two concerned workmen. According to

him the roof at No. 6 level was tested by Bhukhal Mahato and was found to be good. In cross-examination the witness stated that before blasting he had seen the overman asking somebody to put one prop at the junction in the middle of the working face. After hearing this the witness went to No. 8 level and while he was working there he heard the sound of accident. The witness admitted that 6 to 8 props had fallen down after the blasting, that there was no shortage of timber in the mine and that in case there was any shortage of men in the timbering gang, loaders could be utilised in the gang for timbering work.

Shri Pokhal Mahato, Timber Mistry, witness No. 4 for the defence stated that he was in the 2nd shift on 8-8-75. He got he had put cogs of 14 ft. at level-6 and that there were 7 props. According to him he tested the roof which was found to be good.

Sri Ram Lakhan Nonia, Overman, witness No. 5 for the defence stated that he was in the 2nd shift on 8-8-75. He got the work started after putting 6 to 7 ft. Cog at the end of the frame line and after putting 8 props. According to him there was only one timber gang with him whereas three timber gangs were needed in one shift. The witness admitted that permission was there from the officials to engage loaders in the timber gang in case of any shortage, and that a cog was needed at the junction about which he told Shri R. S. Mukherjee, Overman. According to the witness he used to get roughly measured props available in the mine and that there was no shortage of sleepers or props in the mine. Shri Eswari Turi, M/Sirdar, witness No. 6 for the defence stated that he was in the 2nd shift on the night of occurrence. There he found 7 props and 3 cogs in the 6th level. He got 8 props fitted in his shift and also a cog. The witness admitted that coking sleepers and props were available near about 6 level.

After thoroughly examining the entire evidence led in the enquiry the Enquiry Officer has found the two workmen guilty of all the charges made against them except the charge regarding absence from duty. According to the Enquiry Officer Ext. B(2) Off-set Plan clearly shows the place of accident and also shows that sufficient number of timbers were available. This document has been very much relied upon by the Enquiry Officer. It bears the signatures of the two concerned workmen. Ext. B(2) shows the number of cogs and props which were there at the time of accident. The Enquiry Officer has dis-believed the case of the two workmen that no timber fell down after the successive blastings in view of the admission of some of the defence witnesses that props did fall down after the blasting. Reliance has also been placed by the Enquiry Officer on the evidence of the 2nd shift overman who suggested to Sri R. S. Mukherjee to put some more props and cogs. That suggestion was not accepted by Sri Mukherjee. The Enquiry Officer has also relied upon the evidence of Shri Chhota Asai Bilaspuri who said that there was no props and cogs in the working face and none of the two concerned workmen were available at the face. On appreciation of evidence the findings of the Enquiry Officer are that the two concerned workmen were negligent in discharging their duty in not erecting sufficient number of props and cogs in the working face as per Systematic Timbering Rules, that they did not test the roof, that they allowed the loaders to work without getting the roof checked and without getting required number of props and cogs erected for the safety of the roof and that they permitted progressive rounds of blasting without checking the roof. Regarding the charge as to whether they left the place of duty before the end of the shift as indicated earlier the Enquiry Officer found against the management.

8. The main argument of Mr. Lalit Burman for the two concerned workmen is that accident was a "mis-adventure". It was due to the special characteristics in the roof which could not have been detected by checking which were responsible for the accident and that the existence of a hanging Goaf with an area of 60,000 Sq. ft. near the roof which collapsed, which contributed to the accident. It is then argued that sufficient number of cogs and props had been erected to prevent the roof from falling by the concerned workmen and that even if it was held that there was shortage of props and cogs the two workmen could not be held responsible because sufficient number of cogs and props were not available at the spot and because sufficient number of gang men were not at the disposal of the two workmen. In support of these arguments Mr. Burman relies upon the

written statement filed by the management before the Court of Enquiry in which the management had taken the very same pleas which have now been taken by the two workmen here. On the basis of this written statement it is contended by Mr. Burman that the findings of the Enquiry Officer cannot be supported it must be held that the accident was due to reasons beyond human control. Reliance is also placed by Mr. Burman in support of his contention on the technical note which is Annexure-I to the Enquiry Report of the Court Ext. M-10. But a reference to the observations and conclusion of the Court in its report are clearly against the contention of Mr. Burman. The Court in Para 5.1.2 has framed the issues which have been decided in the report. The issues are : (a) what was the precise cause, to the extent it is ascertainable, of the roof fall and (b) to what extent were the Systematic Timbering Rules (STR) followed by the Colliery authorities at the place of the accident and if they were not strictly followed, what was the extent of the deficiency and could the accident have been averted if the STR had been adhered to strictly, or at least to a larger extent than it was actually adopted? While dealing with these issues the Court in different paragraphs of its report observes as follows :

Para 5.2.1 — "Management officials had to concede that there were deficiencies in the observance of S.T.R. Shri R. J. Sinha, the then General Manager of the Area in which Kessurgah Colliery is situated, for instance, admitted that the actual timbering was short of the S.T.R. by one cog and a couple of props. He further admitted that there should have been a cog at the centre of the fall. Shri R. S. Gill, the then Agent of the colliery also stated that he was not satisfied with the timbering at the site of the accident on the date in question. In the circumstances, at the stage of argument the Chief Mining Engineer (Production), appearing on behalf of the Management, admitted that there were 2 cogs and 5 props less than what the STR required."

Para 5.2.2 — "depillaring area in question had not been fully supported in accordance with the S.T.R. due to less number of timbering gangs employed and short supply of timbers."

Para 5.2.4 — "The D.G.M.S., after the statutory investigation of the accident, came to the conclusion that there was 'no doubt that failure to support the working face adequately as per approved S.T.R. with cogs and props after blasting was the main factor responsible for the accident'."

In para 5.5.5 a quotation from Ext. 16 in the Court of Enquiry has been relied upon which reads thus :

"I have gone through the report of the Enquiry Officer and it is clear from it that it was only due to negligence of duty on the part of S/S R. S. Mukherjee, Overman and Bharat Bilaspuri, Mining Sirdar that the major accident occurred on that day causing death of 11 persons, serious injury to one and minor injury to another. Had the Overman and Mining Sirdar taken care to see that supports were erected before the loaders were allowed to enter the place, the accident could have been avoided."

Para 5.3.4 — "In view of these facts, there could be no doubt at all that the Systematic Timbering Rules had not been followed by the Management at the site of the accident. The further questions that arise are the extent to which these Rules had been disregarded and whether the disregard of STR was a cause of, direct or contributory, of the accident."

Para 5.4.3 — "I also note the statement of Chhota Asahi Bilaspuri another loader injured at the accident, that 'there was no prop at the place where I was loading coal'. In reply to cross-examination on behalf of D.G.M.S., he added 'there were props at the goaf edge but the overman and the Sirdar asked us to work at the place where there was no prop'. The above evidence read with the technical analysis prepared by the technical assessor Shri Chakraborty (Annexure I) leads me to the conclusion that there could not have been more than 2 or 3 props at the site of the accident, and that too, at the northern edge of the fall, thereby leaving the area of the fall totally unsupported."

Para 5.4.6 — "I have already come to the conclusion that there was not only inadequate roof support at the place of the accident, but that in fact no props existed at all except possibly at the northern edge. In the absence of such support therefore, the possibility of the roof falling in pieces in between props is also ruled out." Regarding testing of the roof

the Court in para 5.4.8 observes as follows — "It is in evidence that no wooden buntun but only a cracked bamboo pole was available at the site of the accident. It was claimed on behalf of the management that an iron rod was used for testing the roof. I shall in a subsequent section of this Report discuss to what extent this amounted to a violation of the Mines Regulations. For the present I would point out that accepting the theory that there was bed separation, as such has been suggested in the technical report of Shri Chakraborty (Annexure I), any test either with a wooden buntun or even an iron rod would have given a drumming sound. This is supported by the view expressed before the Court by Shri S. S. Prasad, Deputy Director-General, Mines Safety, that bed separation of a no. of stone which is less than 9" thick would give adequate drumming sound when tested by buntun or an iron rod. Obviously, therefore, if the roof had been tested, the Overman or the Sirdar incharge would have been duly warned. The conclusion that follows, and which I accept, is either the roof was not tested even by an iron rod, or that the drumming sound was ignored."

Para 5.5.1 — "The cause of the accident having been established as simple gravity roof fall on account of inadequate timbering, the question which now arises is who are the persons responsible for it. Obviously the two junior-most Supervisory Officers, namely, the Overman and the Sirdar were responsible to ensure that the conditions in the Mine were such that it was safe for the workers to work. If they were not, whatever might have been the reasons for the deficiencies, it was their duty to withdraw the men and fence off the Area. In this case neither the Overman nor the Sirdar did so. They cannot plead that they refrained from doing so in the fear of being penalised by the management. No such case of penalisation has been known to occur at least for years. There was, therefore, no excuse for the Overman and the Sirdar not to have taken action. The direct responsibility for the fatalities and the injuries, if not for the fall itself, must therefore rest on the Overman and the Sirdar."

The aforesaid observations clearly go to show that the stand taken by the management before the Court of Enquiry that the accident was nothing but a "mis-adventure" was given a go-bye and management conceded that due to not following the Systematic Timbering Rules and due to not erecting sufficient number of cogs and props to protect the roof the accident occurred. The report of the Court of Enquiry which is an exhibit in this case also reveals that it was the duty of the two concerned workmen to fence the area where the accident took place. Assuming that sufficient number of timbering materials were not available for erection of required number of props and cogs the two concerned workmen should have fenced the area and should not have allowed the loaders to go inside the fence. Such being the position the report of the Enquiry Officer in the domestic enquiry has been rightly relied upon by the Court. I have already observed that the Enquiry Officer in the domestic enquiry after a very careful scrutiny of the evidence led by the parties has arrived at a conclusion holding the two concerned workmen guilty of all the charges except the charge that they left their place of duty before the end of 3rd shift. After hearing both parties at length I have no doubt about the correctness of the findings of the Enquiry Officer in the domestic enquiry. My conclusion is re-inferenced by the conclusion arrived at by the Court of Enquiry in its report relevant portions of which have been quoted above.

9. I now take up the question as to whether Shri R. S. Mukherjee is an overman or not. Evidence has been led by the management to show that Sri Mukherjee was doing purely supervisory work and was drawing more than Rs. 500 p.m. at the relevant time. Therefore, according to the definition of "workman" as given in the Industrial Disputes Act, Shri Mukherjee cannot said to be a workman. Reliance in this connection is placed on definition given in Sec. 2(s) (iv) of the I.D. Act. Reliance is also placed by Mr. G. Prasad, Advocate, for the management on Sec. 37 of the Mines Act, Rule 46 of the Mining Rules 1955, Regulation 2, sub-regulation 20 of Coal Mines Regulation 1957, Regulations 34 and 43 of the said Regulation on Mazumdar Award at page 151 para 558, on 1956(II) 1.L.J. 75 and on 8 SCLJ 367 in support of the contention that in the present case Sri R. S. Mukherjee is not a workman. Definition given in Sec. 2(s) clearly shows that a "workman" means any person employed in any industry to do any skilled or unskilled manual, supervisory technical or clerical work for hire or reward. The evidence led in the

case clearly establishes that the overman does skilled manual work although he at the same time does some supervisory work. The Supreme Court case relied upon by the management relates to the case of a workman whose nature of duty is entirely supervisory. It is only when the work is entirely supervisory and the man doing the work draws wages exceeding Rs. 500 per month he is taken out of the category of "workman". But where a man does both supervisory as well as skilled manual labour which is the case here it cannot be said that he is not a workman, even though part of his duty is supervisory in nature. Such being the position in the present case I hold that Sri R. S. Mukherjee is a workman and so the reference is valid in law.

10 For the reasons stated above the action of the management of Kessurgarh Colliery of M/s. Bharat Coking Coal Limited, Post Office Nudkharkee, Dist. Dhanbad in dismissing Shri Bharat Bilaspuri, Mining Sirdar and Shri R. S. Mukherjee, Stone Dust Incharge/Senior Overman with effect from 11th December, 1975 is justified and the workmen are not entitled to any relief. In the present circumstances of the case there will be no order for costs.

B. K. RAY, Presiding Officer.

[No. L-20012/223/77-D.III(A)]

[No. L-20012/225/77-D.III(A)]

S.O. 3660—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the management of Dugda Coal Washery of Steel Authority of India Limited, Post Office Dugda, District Giridih and their workmen, which was received by the Central Government on the 2nd December, 1980.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) DHANBAD

PRESENT :

Reference No. 27 of 1979

In the matter of an industrial dispute under S. 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Dugda Coal Washery of Steel Authority of India Limited, Post Office Dugda, District Giridih.

AND

Their workmen.

APPEARANCES :

On behalf of Dugda Coal Washery of Steel Authority of India Ltd.—Shri T. P. Choudhury, Advocate.

On behalf of Bharat Technicals, Contractors.—Shri S. S. Mukherjee, Advocate.

On behalf of the workmen.—Shri H. N. Singh, Vice President, Koyala Ispat Mazdoor Panchayat, Dhanbad.

STATE : Bihar.

INDUSTRY : Coal washery.

Dhanbad, 26th November, 1980

AWARD

The Central Government by its notification No. L-20012/2/79-D. III(A) dated 9th May, 1979 has referred this dispute under Section 10 of the Industrial Disputes Act, 1947 to this Tribunal for adjudication on the following terms :

SCHEDULE

"Whether the demand of the workmen of Messrs. Bharat Technicals contractors of the management of Dugda Coal Washery of Steel Authority of India Limited,
1046 GI/80—4

Post Office Dugda, District Giridih for payment of wages to the workmen listed in Annexure-I for the period from 14th September, 1978 to 20th October, 1978 is justified? If so, to what relief are the said workmen entitled?"

2. In Annexure-I of the schedule of reference there are 212 workmen. These workmen are represented by the sponsoring union viz. Koyala Ispat Mazdoor Panchayat union. The case of the workmen is that they were engaged under the contractor Bharat Technicals in slurry loading work of the Dugda Coal Washery. They were kept out of employment from 14-9-78 to 20-10-78, and thereby they were laid off and were entitled to their wages either by washery management or the contractor.

3. The case of M/s. Bharat Technicals, the contractors is that the job slurry removal used to be done by the Coal Washery through contractor. M/s. Bharat Technicals obtained the contract for one year starting from 8-5-78. But it was terminated w.e.f. 16-11-78 by the management of the coal washery. Several factors were responsible in the smooth functioning of the contract work. The previous contractors put impediments on the way of M/s. Bharat Technicals to show their failure. But the main reason was that the workers engaged in removal of slurry from the ponds stopped working w.e.f. 14-9-78. There was unusually heavy rain during that period followed by election of mukhiya and some festivals. These concerned workmen were engaged in loading slurry in dumpers or in conveyor belts could not get any work as there was no slurry to be removed. In spite of efforts made by the contractor to get the slurry workers to work in the ponds the situation did not improve till 21-10-78. Thereafter each of the workmen engaged by the contractor was paid an advance of Rs. 50. According to the contractor the workmen were never laid off and therefore there was no question of making any payment. Moreover, most of the concerned workmen worked from 14-9-78 to 20-9-78 and were paid for the work done by them.

4. The case of the washery management is that the job of slurry removal is of perennial nature and it is entrusted to the contractors from the very beginning of the washery operation. The contract work was given to M/s. Bharat Technicals from 8-5-78 which had to be terminated w.e.f. 16-11-78. The management have stated that after Bharat Technicals were awarded the work there was agitation for the increase of rates on behalf of the workmen and the contractors were forced to increase the wages. In the middle of September, 1978 it was noticed that the work of removal of slurry was not satisfactory and the contractor gave out that due to cultivation season followed by election of mukhiya, heavy rain which flooded the slurry ponds and festivals of Durga Puja, etc. there had been insufficient progress although the work was never stopped. Moreover, the workers were demanding Rs. 50 as advance which was given by the contractor. The work therefore could not be established before the 3rd week of October, 1978.

5. In order to understand the case of the parties it is better to have an idea about the reclamation process of slurry. The management of Dugda coal washery in their written statement have described the process and their witness Shri R. N. Sharma, MW-2 has also described it. The witnesses for the workmen have also admitted this process. The process is that fine coal dust mixed with water comes out of the washery which is allowed to settle in four tanks located inside the washery premises. These tanks are numbered 1, 2, 3 and 4. Tanks No. 1 and 2 are in one series while tanks 3 and 4 are in another series. The slurry (mixture of coal dust and water) is received in tank Nos. 1 and 2 where it is allowed to settle for about 15 days. The water is then pumped out and the viscous mixture that remains is manually thrashed so that the water is oozed out. This water is again pumped out and the semi-solid substance is taken out and dumped on the bank of the tank. This work is done by one set of workers whom we may call slurry workers.

6. The next step of the process is that other workers load the slurry in dumpers and take the slurry to the belt system of the washery and dumped automatically. Then a third set of workers load the almost solid substance of slurry on the belts to be taken to the washery. The concerned workmen generally belong to the last two categories. The same

process is repeated in the other two ponds also. The position is that by the time the deposits from tanks 1 and 2 are clear, the deposits from tanks 3 and 4 become ready for loading in the dumpers and in the conveyer belts. The position is also clear that if the work in the slurry ponds are not done in the continuous process, there will be dislocation of work for the workmen engaged in loading of dumpers and conveyer belts.

7. Having understood the process now let us see what the evidence in this case is. WW-1 Shri Ram Kishore Chohan is one of the concerned workman and is a belt loader. He started work in 1976 under the contractor Shri Balwant Singh. Thereafter he worked under the successive contractors Shri Jagdish Singh, S. M. Traders, M/s. Bharat Technicals, Shri Banwari Lal Agarwal and Shri Madhav Singh who is the present contractor. Like him other witnesses have also said that although the contractors are changed their employment is continuous. In his cross-examination he has admitted that if there is no work in the slurry ponds, the truck loading and belt loading work cannot go on. He has also admitted that during the period the concerned workmen were not working, the work in the slurry ponds was not going on. His evidence is that the workers of the slurry ponds had demanded Rs. 50 each as advance, and when they were given this advance they started working. He has admitted that after resumption of work the concerned workmen also received the aforesaid advance of Rs. 50. This witness in his cross-examination has admitted that between 8th May, 1978 to 21st May, 1978 the workers had stopped work for raising the rate of payment per ton, and after the settlement with their union they resumed work. In his cross-examination the witness has admitted the aforesaid three types of workers and has said that there three types of jobs are not inter-changeable. It means that the concerned workmen could not be put as slurry workers for the purpose of reclamation of slurry from the ponds. It is further clear from the evidence of this witness that the slurry pond workers had stopped work because they were demanding Rs. 50 in advance. It has been admitted by the witness that not only this advance was given the pond workers it was given to other workers also. It is therefore clear that the slurry workers stopped work as the management or the contractor were not prepared to meet this demand. Furthermore, in this demand the other two sets of workers had also joined hands. With regard to the demand of Rs. 50 as advance, WW-2 Shri Ram Deo Chohan has also admitted. WW-3 has said that this advance was towards bonus.

8. From the evidence of the workmen who have been examined it is apparent that the slurry pond workers had struck work and were demanding Rs. 50 in advance. These slurry workers are admittedly local people. The concerned workmen are mostly non-locals and the majority of them come from U.P. side. It is an admitted position that during September there was heavy rain followed by festivals like Durga Puja. Furthermore, the slurry pond workers may be engaged in cultivation and absenting themselves. The management was complaining to the contractor about slow work when there came a sudden stoppage of work by the slurry workers. Even then from some days the loading work could be done as amply proved by the contractor. For instance we have before us Ext. M 8 which is statement of attendance from 14th September, 1978 to 20th September, 1978. A list of 85 workers in relation to belt loading have been shown to have worked on the aforesaid dates. Similarly 49 loading labour as well as 43 loading labour also appeared to have worked. These statements are from attendance register. It is shown that they were engaged to load already reclaimed slurry. They were also paid wages as admitted by the workmen examined as witnesses in this case. Furthermore, most of the concerned workmen gradually joined after the pond labour started work. Since others had not joined, a notice Ext. M 2 dated 27th October, 1978 was given by the contractor.

9. It will appear from the above that the concerned workmen did not get work on account of the slurry pond workers going out on a strike. It is an admitted position that in September, 1978 and in the beginning of 1979 there had been heavy rains and slurry ponds got flooded. The recovery of slurry has been stated by the contractor to be impossible during that time. Some of the witnesses of the workmen have admitted that there was election of mukhiya followed by Durga Puja in which the pond workers may have absented themselves. But over and above there was a demand

of an advance of Rs. 50 which eventually not only pond workers but all others got. The contractor employed a good number of workers for the purpose of loading of dumpers and conveyer belt between 14th September, 1978 and 20th September, 1978 and thereafter there was no slurry available to give them work. The attendance register and wage sheets (Exts. M 9, M 4, M 5 and M 6) will show that the concerned workmen worked between 14th September, 1978 and 20th September, 1978 and were paid. It is therefore clear that the contractor did whatever was possible for him to do under the circumstances obtaining at that time.

10. On behalf of the workmen Ext. W 1 has been filed which does not in any manner advance the case of the workmen. On the other hand, it admits that there was no work for the concerned workmen because the slurry pond workers had gone on strike. Now let us examine whether the concerned workmen are entitled to the relief claimed by them. At the first instance the stand taken on their behalf is that this was a case of lock-out. But it could not be a case of lock-out because a lock-out presupposes that work is available but the employer does not allow the workers to work. Here on account of the strike of the pond workers there was no slurry to be loaded on the dumpers or the conveyer belts, and so there was no work with the contractor to provide the concerned workmen with work. The next stand is that the contractors laid off the concerned workmen without any notice and so are liable to give compensation. S. 25C of the I.D. Act gives the right to the workmen to get lay off compensation. But before that two conditions are to be satisfied viz.—(1) each of the concerned workmen has completed not less than of one year continuous service. It means that during the period of 12 calendar months the worker has completed 240 days of attendance (2) Lay off compensation is not admissible if such lay off is due to a strike or slowing down of production on the part of the workmen in another part of the establishment [Sec S. 25E (iii) of the I.D. Act]. In the instant case the reclamation of slurry and transportation of the slurry to the conveyer belts has to be regarded as one establishment. The job done by the three types of workers in this establishment is not interchangeable. The slurry pond workers had gone on strike as a result of which the work at first slowed down and then had to be stopped. The provisions of S. 25E (iii) of the I.D. Act therefore debar the concerned workmen from any compensation on the ground of lay off. I need not go into the question whether each of the concerned workman has put in 240 days of attendance in one calendar year. But so far as the contractor M/s. Bharat Technicals are concerned, their contract was terminated within six months of the contract and therefore these concerned workmen had no occasion to work for a year under the contractor. It is for this reason that the representative of the workmen has submitted before me that so far as the contractor M/s. Bharat Technicals is concerned they have no demand for lay off compensation; but this compensation has to be paid by the management of Dugda Coal Washery. According to them they are not contractor workers but the workmen of Dugda Coal Washery. For this purpose reliance has been placed on a Supreme Court judgment reported in 1978 Labour Industrial Cases—page 1264. It has been argued on the strength of this decision that although the contractors are changing these workmen have been in continuous service. The field of their activities is within the washery premises because the slurry ponds and the conveyer belts are located within the washery premises. The reclamation of slurry is made for the purpose of use by the coal washery and this work is done through the contractor. Moreover it has been stated that the contractor M/s. Bharat Technicals were engaged as contractor on 8-5-78. But the contract was signed after the termination of the contract. Further more, under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 there was no contract whatsoever. Moreover, before employment of a contractor the employer had to get a licence from the appropriate authority which in this case was not done. For all these reasons it has been said that Dugda Coal Washery is a principal employer and the position of the so-called contractor M/s. Bharat Technicals could not be better than an agent of the principal.

11. I need not go into this complicated question as to what has been the status of M/s. Bharat Technicals in relation to the management of Dugda Coal Washery. I also need not go into the question as to whether the concerned workmen are employees of the contractor or of the Dugda Coal Washery. Before me the simple question is as to

whether they are entitled to payment of wages for the period between 13th September, 1978 and 20th September, 1978. Such a demand could be made only as lay off compensation. I have already dealt with this aspect and have come to the conclusion that under circumstances of this case there could be no lay off compensation.

12. Thus, having considered all aspects of the case, I have to hold that the demand of the workmen of Messrs Bharat Technicals, contractors of the management of Dugda Coal Washery of Steel Authority of India Limited, post office Dugda, District Giridih for payment of wages to the workmen listed in Annexure I for the period from 14th September, 1978 to 20th October, 1978 is not justified. Consequently, the workmen are entitled to no relief. Annexure I of the schedule is reproduced below.

This is my award.

ANNEXURE I

1. Shri Markendey Prasad
2. Shri Harihar Rajbhar
3. Shri Sadak Bajbhar
4. Shri Salam Bajbhar
5. Shri Iochan Ram
6. Shri Sirkam Judav
7. Shri Pujan Jadav
8. Shri Laljari Ram
9. Shri Bakatdeo Ram
10. Shri Deopat Ram
11. Shri Rame Chohan
12. Shri Shrinath Chauhan
13. Shri Hanoo Raz
14. Shri Mahadeo Chohan
15. Shri Kanaihya Lal Chauhan
16. Shri Ladharam Chauhan
17. Shri Chandrika Chauhan
18. Shri Harl Chauhan
19. Shri Saran Chauhan No. 1
20. Shri Mulchand Chauhan
21. Shri Ramedhian Chauhan
22. Shri Budhiram Chauhan
23. Shri Kanaihya Chauhan No. 2
24. Shri Rama Auwadh Kumar
25. Shri Kanaihya Ram
26. Shri Bajkumar Ram
27. Shri Sama Ram
28. Shri Nagina Ram
29. Shri Ramsidh Ram
30. Shri Sumar Jadav
31. Shri Sant Ram
32. Shri Ganga Ram
33. Shri Gana Ram
34. Shri Ram Auwadh Ram
35. Shri Nifkir Ram
36. Shri Rama Brich Chauhan
37. Shri Baijnath Chauhan
38. Shri Motilal Chauhan
39. Shri Dinanath Ram
40. Smt. Durga Debi
41. Shri Ajodhya Rowani
42. Shri Poohan Bowani
43. Shri Nadho Jha
44. Shri Kisto Rowani
45. Shri Rajnarayan Ram
46. Shri Lalji Ram
47. Shri Dhanu Ram
48. Shri Shivanath Ram
49. Shri Suloman Ansari
50. Shri Bharau Khumar
51. Shri Kartik Mahto
52. Shri Surajbali Ram
53. Shri Jagdish
54. Shri Debi Rewani
55. Shri Mandu Chauhan
56. Shri Dinonath Chauhan
57. Shri Patiram Chauhan
58. Shri Daya Ram
59. Shri Hari Chauhan
60. Shri Naku Chauhan
61. Shri Sivanath Chauhan
62. Shri Ramdeo Chauhan
63. Shri Samharu Chauhan
64. Shri Rama Chandra Chauhan
65. Shri Pyas Chauhan
66. Shri Bodhu Chauhan
67. Shri Nihor Chauhan
68. Shri Kesbo Chauhan
69. Shri Surat Rajbhar
70. Shri Algu Rajbhar
71. Shri Kedar Chauhan
72. Shri Naresh Chauhan
73. Shri Kangar Chauhan
74. Shri Inderdeo Rajbhar
75. Shri Bhola Chauhan
76. Shri Khagshahan Chauhan
77. Shri Tenu Chauhan
78. Shri Tenu Chauhan
79. Shri Surat Chauhan
80. Shri Sitaram Chauhan
81. Shri Deopati Chauhan
82. Shri Shyamlal Chauhan
83. Shri Dudhnath Jadav
84. Shri Chandrika Chauhan (F)
85. Shri Dudhnath Jadav
86. Shri Banuman Chauhan (F)
87. Shri Chandrika Kumar
88. Shri Jairam Chauhan
89. Shri Lahju Chauhan
90. Shri Bishandeo Chauhan
91. Shri Barho Chauhan
92. Shri Nakharu Chauhan
93. Shri Murat Chauhan (F)
94. Shri Shyamaarayan Chauhan
95. Shri Nabi Hussain Ansari
96. Shri Bambilas Mahto
97. Shri Biswakarma Mahto
98. Shri Ganesh Mato
99. Shri Kalyan Mahto
100. Shri Lakhon Singh
101. Shri Shrinarayan Singh
102. Shri Bambrich Ram
103. Shri Lakhon Mahto
104. Shri Shiva Saran Mahto
105. Shri Suresh Bhuin
106. Shri Kalash Bhuia
107. Shri Sarup Gahlot
108. Shri Krishna Gahlot
109. Shri Bigan Gahlot
110. Shri Sahdeo Chaudhry
111. Shri Sri Basistha Singh
112. Shri Rambilas Singh
113. Shri Surajbali Sah
114. Shri Naresh Rajak
115. Shri Nabin Rajak
116. Shri Bhupal Rajak
117. Shri Nageshwar Mahto
118. Shri Likan Gope

119. Shri Dhonidhar Singh
120. Shri Nanik Bauri
121. Shri Banarshi Chauhan
122. Shri Baijnath Chauhan
123. Shri Bigan Singh
124. Shri Ganga Chauhan
125. Shri Ramkaran Chauhan
126. Shri Chandrika Chauhan
127. Shri Kummurat Chauhan
128. Shri Amarnath Chouhan
129. Shri Hanuman Chauhan (C)
130. Shri Dhyan Chauhan
131. Shri Deonath Chauhan
132. Shri Kamrup Chauhan
133. Shri Suresh Chauhan
134. Shri Rambachan Chauhan
135. Shri Adu Chauhan
136. Shri Nambali Chauhan
137. Shri Moti Chauhan
138. Shri Kamolal Chauhan
139. Shri Ramkishore Chauhan
140. Shri Dipohand Chauhan
141. Shri Hargin Chauhan
142. Shri Chandraman Chauhan
143. Shri Rajhali Chauhan
144. Shri Surajbali Chauhan
145. Shri Ramu Chauhan
146. Shri Ram Sanchi Chauhan
147. Shri Jibakul Das
148. Shri Ramlal Das
149. Shri Bhola Turi
150. Shri Ruplal Turi
151. Shri Ramsoon Ram
152. Shri Dudhnath Ram
153. Shri Shyam Lal (F)
154. Shri Rajendra Ram
155. Shri Nepal Ram
156. Shri Sagir Ahmad
157. Shri Shiba Ram
158. Shri Shyamlal (C)
159. Shri Itwari Bhuia
160. Shri Dhani Bhuia
161. Shri Somani Kamir
162. Shri Jamuna Bhuia
163. Shri Samphulwa Kamin
164. Shri Bhadmi Bhuia
165. Shri Anarwa Kamin
166. Shri Bundi Bhuia
167. Shri Sonpatla Kamin
168. Shri Dulan Bhuia
169. Shri Bigan Bhuia
170. Shri Ramprit Bhuia
171. Shri Aswa Kamala
172. Shri Charitar Bhuia
173. Shri Sanichari Kamin
174. Shri Gaiib Ram
175. Shri Ratulal
176. Shri Santi Kamin
177. Shri Dhobia Bhuia
178. Shri Ramdeo Bhuia
179. Shri Bachia Kamin
180. Shri Parbatia Kamin
181. Shri Janmatin Kamin
182. Shri Shamlal Bhuia
183. Shri Somatia Kamin
184. Shri Lachu Bhuia
185. Shri Junglal Bhuia
186. Shri Sohrai Bhuia
187. Shri Shri Lalbahadur Bhuia
188. Shri Lalbari Bhuia
189. Shri Jamoda Kamin
190. Shri Bindu Bhuia
191. Shri Gulabina Kamin
192. Shri Bhunwa Bhuia
193. Shri Madan Sao
194. Shri Naresh Sao
195. Shri Paresh Sao
196. Shri Panchu Mirdha
197. Shri Kalachand Mirdha
198. Shri Sumitra Kamin
199. Shri Saodeo Bhuia
200. Shri Ram Kalia Kamin
201. Shri Mangra Bhuia
202. Shri Pairoo Bhuia

203. Shri Santi Kamin
204. Shri Narayan Puri
205. Shri Chotalal Rajbhar
206. Smt. Anupa Debi
207. Shri Bishan Rajbhar
208. Smt. Narbada Debi
209. Shri Sugia Kamin
210. Shri Dasrath Rajwar
211. Smt. Lakheshari Debi
212. Shri Kailash Bhuia

Sd/-

J. P. SINGH, Presiding Officer.

[No. 1-20012/279 D.II(A)]

S. H. S. IYER, Desk Officer.

New Delhi, the 17th December, 1980

S.O. 3661.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad, in the industrial dispute between the employers in relation to the management of Messrs. Dehri Rohtas Light Railway Company Limited and their workmen, which was received by the Central Government on the 6th December, 1980.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), DHANBAD

Reference No. 84 of 1979

In the matter of an industrial dispute under S. 10(1)(d) of the I.D. Act, 1947

PARTIES:

Employers in relation to the management of Messrs Dehri Rohtas Light Railway Company Limited and their workmen.

APPEARANCES:

On behalf of the employer : Shri S. S. Mukherjee, Advocate.

On behalf of the workmen : Shri S. K. Khanna one of the concerned workmen and member of Dehri Rohtas Light Railway Employees Union, P.O. Dalmianagar, Rohtas.

STATE : Bihar.

INDUSTRY : Light Railway.

Dhanbad, 29th November, 1980

AWARD

This is a reference under S. 10(1)(d) of the I.D. Act, 1947. The Central Government by its Notification No. L-41011(1)/77-D. III(B) dated 19th November, 1977 has referred this dispute to this Tribunal for adjudication on the following points :

SCHEDULE

"Whether the demand of the workmen of Messrs Dehri Rohtas Light Railway Company Limited for upgradation of and grant of higher scales of pay to the employees mentioned in Annexure A below, is justified? If so, to what relief are the said employees entitled and from what date?"

ANNEXURE A

1. Shri B. P. Mishra.
2. Shri G. S. Ram.
3. Shri Jwala Dutt.
4. Shri Onkar Nath Pradhan.
5. Shri Phulendra Prasad.
6. Shri Badri Narain Srivastava.
7. Shri C. D. Singh.
8. Shri S. K. Khanna.
9. Shri Rajendra Sukla.
10. Shri Lallan Lal.
11. Shri B. P. Sinha.
12. Shri Sudama Singh.
13. Shri K. K. Mallick.
14. Shri Nagendra Prasad.
15. Shri R. B. Choudhary.

2. The dispute on behalf of the aforesaid 16 workmen was sponsored by the Dehri Rohtas Light Railway Employees Union. According to the case of the union there were two grades in 1962 for the clerical cadre viz. Rs. 110—180 and Rs. 130—300. In 1973 another grade was added i.e. Rs. 210—380. In the year 1976 the management added another grade which is Rs. 300—900. All the workmen except Shri Rajendra Sukla are still in the grade of Rs. 110—180. Shri Rajendra Sukla, after the reference, was placed in the grade of Rs. 130—300. Their grievance is that other workers juniors to them were allowed higher scales. Appendix A has been given showing the names of 20 workmen who have got better scales of pay. In this Appendix Sl. Nos. 1 to 10 are in the grade of Rs. 300—900 w.e.f. 1-3-76. Before that they were in the grade of Rs. 210—380 or Rs. 130—300 from 1-4-73. Sl. Nos. 11 to 20 Appendix A were in the grade of Rs. 130—300 and Rs. 210—380 from 1-4-73. According to the workmen the management did not consider seniority, experience and academic qualifications in the matter of promotion to higher grades. It was asserted that all these workmen should have been placed in the grade of Rs. 210—380 according to qualification, seniority and fitness.

3. During the pendency of this reference D.R. Lt. Railway Shramik Sangh was added as a party to represent the cases of S/Shri R. Sukla, Lallan Lal, N. Prasad and G. S. Ram whose names appear in Schedule A of the notification of the reference. This union i.e. Shramik Sangh filed a written statement covering the same ground but laying a special emphasis to the cases of the aforesaid 4 workmen. Their prayer was to place these workmen in the grade of Rs. 210—380 with retrospective effect. I may mention that after filing of the written statement the Shramik Sangh showed no interest in the case and at the time of hearing of this reference this union did not appear. This case was contested by the Dehri Rohtas Light Railway Employees Union representing all the 16 workmen.

4. There are 32 persons of clerical cadre in the office and store combined, 9 in the mechanical section and 3 in the Civil section. According to the management seniority, qualification and efficiency have always been considered by the management in the matter of allotment of higher grades. Moreover, the promotions have been made in the higher grades departmentwise. It was denied that any partiality has been shown to the workmen by the management in the matter of promotion. With regard to the specific cases of 4 persons advanced by this Shramik Sangh, the management filed a special rejoinder. According to the management Shri R. Sukla was given the job of shed clerk from 15-7-57. Again he had been placed in the scale of Rs. 110—180 and from 1-2-77 he was given the scale of Rs. 130—300. His service was placed in the Loco Shed which was a separate department. About Shri Lallan Lal and Shri N. Prasad the management said that they belong to clerical cadre of Loco and Carriage Department and they could not claim any right of promotion over the vacancies occurring in other departments. Similarly, Shri G. S. Ram belongs to Personnel Department which is a separate wing and his confirmation and seniority has to be confined in the Personnel Department. The management gave reasons for promotion to Shri M. K. Bhatta and Shri Ram-sakal Shah on the ground of settlement and agreement with the union and on the ground of better efficiency.

5. The management filed certain documents which were admitted into evidence waiving formal proof. Ext. M1 shows that Shri A. S. Bisnoi was given the pay scale of Rs. 210—380 in terms of memorandum of settlement dated 28-10-77. The settlement itself is Ext. M1/1. Ext. M2 shows that Shri A. B. Asthana was placed in the grade of Rs. 130—300 and his designation was changed from record clerk to record-cum-security clerk. Ext. M2 is dated 12-9-73. Ext. M2/1 is dated 4-11-76 under which Shri A. B. Asthana was allowed the scale of Rs. 300—900. Ext. M3 is dated 12-9-73 and shows that Shri P. K. Sinha was allowed higher scale of pay of Rs. 130—300 after changing his designation from Audit clerk to Audit-cum-Law clerk. Ext. M3/1 dated 4-11-76 shows that Shri P. K. Sinha was put in the scale of Rs. 300—900. Ext. M4 is a consolidated statement showing the list of persons in the clerical cadre with other particulars. This shows that in the Personnel Department there are 7 persons. In the Accounts Department there are 9 persons and in Audit Department there are 7 persons. In the General Section there are 4 persons and in the Shed Department there are 8 persons. In

the Store Department there are six persons. According to the management the seniority of the clerical staff inter se has been followed departmentwise. Ext. M5 is a settlement dated 14-6-62. Under this settlement grades were allowed as aforesaid together with D.A. Attached with this settlement is a schedule under which the different categories of workmen were allowed different scales. Ext. M6 is another memorandum of settlement dated 12-6-67. Under this settlement the rate of D.A. was increased. Some other demands were also fulfilled. Ext. M7 is a memorandum of settlement dated 27-4-70. There were several demands—under demand No. 4 it was agreed to drop the demand regarding weightage/promotion to next higher grade on account of seniority. Ext. M8 is another memorandum of settlement dated 15-4-73. Ext. M9 is a copy of the standing order of the Dehri Rohtas Light Railway. Ext. M10 is a letter dated 6-1-77 addressed to the Assistant Labour Commissioner. This was in reply to the letter of Asstt. Labour Commissioner (C) Patna No. 8/14/76-LIS dated 3-12-76 with a copy of the union's letter dated 21-10-76. It appears that in 1973 the union had taken objection to the granting of scale of Rs. 210—380 and to certain others in the scale of Rs. 130—300. The management admitted that upgradings were not granted merely on the basis of seniority but suitability and merit was also considered. The individual cases were also discussed in this letter and justification shown by the management.

6. The management has examined MW-1 Shri G. K. Jain. At an earlier stage Shri Kamala Prasad was partly examined in the examination-in-chief as MW-1. He did not turn up for further examination and therefore his evidence recorded earlier was cancelled. Instead Shri G. K. Jain was examined by the management as MW-1. He is the Personnel Officer of Dehri Rohtas Light Railway since 1960. His evidence is that in the matter of promotion the management follows the norms given in the settlements. Exts. M6 and M8. According to his the concerned workmen are all in the scale of Rs. 110—180 except Shri Rajendra Sukla, Sl. No. 10 who is in the scale of Rs. 130—300. According to him Shri Sukla has been promoted to the post of shed assistant from the post of shed clerk. He has denied that the promotion of the concerned workmen was held up in order to victimise them. He has proved Ext. M10 which is comment of the management during conciliation stage. His evidence is that the jobs of different sections are different and normally there is no transfer from one section to another section. He says that the scale of Rs. 210—380 was introduced in 1973 to give incentive to the senior and better workmen. At the time when this scale was introduced the senior most persons in the grade of Rs. 130—300 were promoted. His evidence is that Sl. No. 6 Shri Sukhmal Prasad Jain (of Annexure A to the written statement of the workmen) was in the scale of Rs. 150—240. According to the agreement of 1962 he was a pay clerk drawing Rs. 130—300. He was promoted in the scale of Rs. 210—380. Similarly Sl. No. 9 of that Annexure A Shri B. S. Sharma was given the promotion in the grade of Rs. 210—380 from 1-4-73 as he was performing the job of company law. Then again on the demand of the union Shri Ram Sakal Sao and Shri K. D. Mittal (Sl. Nos. 19 and 18) of Annexure A to the W.S. of the workmen were promoted. His evidence is that the scale of pay of Rs. 300—900 was introduced w.e.f. 1-4-76 for the supervisory staff only on which some of the senior clerks of different sections were promoted.

7 MW-1 was cross-examined at length but the materials taken in cross-examination on behalf of the workmen merely go to support the case of the management as put forth in this reference. In fact it has been shown that the management has acted on the basis of the successive memorandum of settlement showing the agreements between the recognised union and the management. Since I have referred to the different settlements I need not repeat what has been taken in the cross-examination of this witness.

8 WW-1 Shri S. K. Khanna happens to be the secretary of D.R. Lt. Rly. Employees Union. He is a store clerk and one of the concerned workmen. He was appointed in 1956 as a shed clerk and was transferred to store in 1960. His grievance is that all the concerned workmen have remained in the scale of Rs. 110—180 ever since 1962 except for Shri Rajendra Sukla who was placed in the grade of Rs. 130—300 recently after this reference. His evidence is that some of the concerned workmen were appointed as far back as in 1945. With regard to Shri B. P. Mishra he has said that on 25-4-51 he got his first appointment and has retired in

April, 1980. His grievance is that the clerical staff junior to the concerned workmen have been promoted and fitted in the scale of Rs. 130—300, Rs. 210—380 and Rs. 300—900. He has said that the workmen's demand is that taking all the workmen of similar cadre in the consideration the promotion should have been done by the management senioritywise. He has referred to the persons mentioned in Annexure A of the union's written statement and has said that the management did not consider seniority in the matter of promotion and fitness to higher scales of pay. According to him the clerical staff working in the shed, store and general office do the same type of job and there is no distinction in the work of different office. According to him the postings are interchangeable. In his cross-examination however he has admitted that he happens to be the secretary of Dehri Rohtas Light Railway Employees Union since 1973. This is the only union recognised by the management and this union has about 800/900 employees of this railway. His evidence is that all the concerned workmen belong to this union of which he is the secretary. All the 20 persons mentioned in Annexure A to the written statement also belong to this union. He has said that the scale of Rs. 110—180 and Rs. 130—300 were introduced in pursuance of a settlement between the union and the management (Ext. M5). The grade of Rs. 210—380 was introduced by the railway on its own accord. He has denied that the grade of Rs. 300—900 was introduced only for the supervisory staff. With regard to Shri A. S. Bishnoi (Sl. No. 17 of the Annexure A to the W.S. of the union) he has said that he got the scale of Rs. 210—380 in pursuance of a settlement arrived at in course of a conciliation proceeding (Ext. M1/1). Similarly Shri A. B. Ashthana (Sl. No. 8 of the Annexure A to the Written statement) got the scale of Rs. 130—300 by virtue of Ext. M2, and thereafter he was made a security Assistant and given the scale of Rs. 300—900. Similarly Shri P. K. Sinha (Sl. No. 7 of the Annexure A) got the scale of Rs. 130—300 by Ext. M3 as Audit-cum-Law clerk and thereafter he was made as Law Assistant and given the grade of Rs. 300—900. He has also admitted that there were two agreements with his union and the management viz. Exts. M6 and M8 on promotion policy. According to him the promotions were not made on that policy.

9. In view of the evidence of MW-1 and WW-1 it becomes apparent that the workers of Dehri Rohtas Light Railway were put into different sections and their seniority was regulated

sectionwise. Moreover, certain capable persons were given extra assignments where they showed their ability to perform special jobs. They were at the first instance promoted to higher scales and ultimately have been placed in the highest grades which the management chooses to call supervisory grade. Now a series of settlements were arrived at in different years between the recognised union and the management as a consequence of which there were promotion and fitness to higher scales. Individual cases have also been considered by the management in consultation with the recognised union. In view of the above, I do not think that the present dispute should have been raised. Moreover, Ext. M10 is a comment offered by the management at the conciliation stage meeting all the points raised by the union in which comments were also offered in respect of individual cases raised by the union. In this court WW-1, Shri Khanna who is also the Secretary of the union has not been able to find fault with the policy adopted generally by the management and on the promotion of individual cases. All he has tried to say in this court is that some of the concerned workmen are very senior people and they have not got any higher scale. But the management has shown that although some of them were appointed very early and have not earned higher scale, this was not due to the fault of the management but according to the place they occupy in the cadre belonging to the different sections. No instance has been brought before me by Shri Khanna. WW-1 to show that in their own cadre the concerned workmen have been superseded. Now, this being the position we can throw no blame on the management nor can we say that the action of the management is in any manner unjustified.

10. Thus having considered all aspect of the case, I held that the demand of the workmen of Messrs Dehri Rohtas Light Railway Company Limited for upgradation of and grant of higher scales of pay to the employees mentioned in Annexure A to the schedule is not justified. Consequently, the workmen are entitled to no relief.

This is my award.

I. P. SINGH, Presiding Officer,

[No. L-41011(1)/77-D.II (B)]

A. V. S. SARMA, Desk Officer